

1661. Oct 14. 1661.

ROMANÆ  
HISTORIÆ  
ANTHOLOGIA RECOGNITA  
ET AUCTA.

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AN  
English EXPOSITION  
OF THE  
ROMAN  
ANTIQUITIES,  
WHEREIN  
Many ROMAN and ENGLISH  
Offices are parallell'd, and divers obscure  
Phrases explained.

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*For the use of Abingdon School.*

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Newly revised and enlarged by the Author.

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# ЭКОНОМИЧЕСКАЯ ПОЛИТИКА СОВЕТСКОЙ АМЕРИКИ

## ЗАЩИТНЫЕ

— 10 —

### Jobs negligibly affected

Издательство



VIRO  
COLENDISSIMO  
D. JOHANNI YOUNG  
SS. THEOLOGIÆ DOCTORI  
& Ecclesiæ Wintoniensis Decano  
Ornatissimo.  
Educauorissimæ dñyan.

Vir Ornatissime,

**N**on liberti quam libri pluribus exponi  
periculis solent, cum primum pro-  
deant in lucem: utriq; pariter opus  
est tutelari aliquo numine obste-  
tricante. Hoc olim sensi antholo-  
gia hac nostra primum edita: idem  
sensit eadem in hodierna duarum  
sectionum. & capitulorum aliquot  
superficiatione. Nacta agitur secundas suas cogitationes  
te ambit Patronum, qui faciem aliquam mibi in his  
A 2 anti-

antiquitatibus obambulanti prætulisti; & quem mul-  
sum fuisse in studiis meis promovendis, palam & sub  
Dio prædico, videbis me aliquoties alium à doctissimis  
viris, & ab illorum sententiis alienum: Veritate enim  
præponderante, nullus apud me Plato, nullus erit Aris-  
toteles, ( nolo ego istiusmodi insanire, ut cunque  
splendidam & autoritativam: ) Taterum tacitus hoc  
facio, & apud me, citra omnem velitationis pulverem,  
raro admodum quovis prostrato in arenam, ne videat ex  
illorum numero, qui ex nuda pugna cum adversario  
aliquo eximio commissa, gloriola nescio quos sumos sibi  
pollicensur. Hac scribendi rasio si tibi placeat, alios  
non moror, quibus si simplex veritas non arriserit, cum  
magnis nominibus deviare per me licet. Vale, &  
meas Musas, ut soleas, ama: illæ, quod jam facient, te  
colet semper, & omni obsequio prosequentur. Datum  
Abingdonæ 14. Cal. Decemb. An. Christi 1622.

Dignitati tuæ multiplici  
nexu mancipatus,

THO. GODWIN.

# BENVOLO LECTORI

*Eusebiorum, Eusebiorum.*

**M**iraris forsitan & redarguis, quod nondum destitutum ab his elementaribus, quasi vita mihi vitalis foret, in his minutis integrum meam aetatem eludere, & votum unicum in his praeviis studiis senium contrahere. Qui sic sentis, nec me satis noris, nec ludi literarii (pone lenocinium nominais, molestrinæ dices) iniquas leges, aut miseras quotidianas & omnigenas. Sentio ego me in pistrinum damnatum, & cogita tu hanc Anthologiam è pistrino prodeuntem. Si minus placeat, illud dabis puerorum circumstrepentium susurris, inter quos nata est: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitam indies reducunt ad haec studia, quæ alias jamdudum jussisse suas fibi res habere. Sic me amet Theologia, sacratior mihi pagina in votis, cum haec in manibus, ludo cogente. Interim te monitum velim, quæ accessere, non vulgaria, aut obvia, nec quæ vulgus hominum aut docuit, aut didicit. Vale.

# A short Table shewing the Argument of every Book and Section.

Lib.	1. of the Ro-	1. Of the chief parts thereof.
	man City.	2. Of the general divisions of the Roman People.
	2. of the Ro-	1. Of certain general divisions of their Gods.
	man Religi-	2. Of their Roman Priests; with some particular Gods, together with their rites in Marriages and Burials.
Sect.	on. Sect.	3. Of the Roman Games, which endeb with their manner of taking meat.
	1. of the State	1. Of their Assemblies called Comitia, which Section is begun with the Roman year, concluded with two Chapters of Roman Garments.
	Political.	2. Of their Civil Magistrates.
	Sect.	3. Of their Civil Punishments.
Cap.	4. of the Art	4. Of all those laws which I have observed to be touched in Tully's Orat.
	Military, as	1. Of their manner observed in establishing their leagues.
	it was pre-	2. Of the Roman Legion, and the parts thereof.
	filled by the	3. Of the manner of besieging a City.
Romans		4. Of the punishments towards their enemies captivated.
		5. Of punishments towards the Roman soldiers offending.
		6. Of certain rewards after the performance of any noble exploits.



THE ROMAN  
ANTIQUITIES,  
Expounded in *English*.

LIB. I. SECT. I.

*Of the chief parts of the City.*

---

CAP. I.

*De modo condendarum, delendarumq; Urbium,*



Before we handle the description of the particular places in the Roman City, it will not be amiss to premise somewhat concerning the ancient manner of building and razing Cities. In the building of Cities, the Founders thereof did usually consult with their Gods in their Augural observations; and this course was observed by *Romulus* himself, in the first foundation of *Rome*: After their Augural observations, they marked out the plate where the wall of the City should be buile, by plowing up the ground; and because they left that space of ground unplowed, lightly lifting the plough over

a M. Fullius  
lib. i. de  
divinar.

b M. Cato in  
fragm.

over it, where they appointed the gate of the City, thence *a portando*, from carrying and lifting the plough, they called the gate *Porta*. This custom is fully described by b Cato: *Capitato angario, qui urbem novam condebat, tanquam & vacca arabat: ubi arasset, murum faciebat; ubi portam volebat esse, aratrum sollebat & portam vocabat.* Virgil also alludeth unto it,

*Interea Aeneas urbem designat aratro.*

The manner hereof was, that he who held the plough did cast up the skirt of his gown on the right shoulder, and gird himself about, either because this was the usual habit of such who performed holy rites; ( in the number of which this present action was reputed ) or that he might the more readily address himself to the busines; or lastly, that he might symbolically by that pacifical habite intimate, that the flourishing estate of a City is not so much preserved by war, as by peace. Hence Ovid, lib. 4. Faſtorum,

*Ipse tenens stivam, designat mania fulgo,*

*Alba jungum niveo cum bove vacca inlit.*

c Cael. Rhed.  
ant. l. 26. c. 5.

The c like cultom was used also in the razing or demolishing of Cities, when they had been vanquished by the enemies: which obſervation giveth light to that of Horace, lib. 1. Od. 16.

— *Urbibus ultima*

*Stetere causa, cum perirent*

*Funditus imprimeretq; muris*

*Hostile aratrum exercitus insolens.*

## C A P. 2.

*De monte Palatino.*

d Vid. Ant.  
Conſtant. in  
Ovid. Faſt. I. I.

**T**ouching the name of *Rome*, from what occasion the City should be so denominated, divers authors conceit diversly. d Some are of opinion, that this City was built long before *Aeneas* came out of *Troy*, and was then called

## Of the chief parts of the City.

called by the Latines, *Valentia*, which was a name of strength, whence *Evander* coming from *Italy*, called it *Roma* from *brave*, *Robur*. Others say it was so called from *Ascanius* his daughter, whose name was *Roma*. But it is agreed upon by most writers, that the founders were *Romulus* and *Remus*, and from *Romulus* it was called *Roma*, not *Romula*, because the diminutive *Romula*, might ominous less prosperity thereunto. *e* Some say, that they built it in form of a quadrangle, upon one only hill, called *Mons Palatinus*. *f* Others say, that *Fabius* left *Rome*, as it was first built, with the fields thereof, painted in the form of a bow, the River *Tiber* being the string thereof. Upon this *Palatine* hill was alwaies the seat of the Roman Empire, which from the hill took the denomination of a *Palace*: and hence all *g* stately buildings which we call *Palaces*, took their name *Palatia*. This hill had his first appellation, *h Balatinus à Balande*, from the bellowing of cattle pasturing there in former times; and afterwards the first letter being changed, it was called *Palatinus*; by the figure *ενσούχον*. *Virgil* seemeth to be of opinion, that the hill was called *Palatinus* by *Evander*, in remembrance of his grandfather, whose name was *Pallas*, according to to that,

*Posuere in montibus urbem,*

*Pallaniis proaude nomine Pallentem.* *Virg. En. l. 8.*  
In procel of time six other hills by several Kings of *Rome* were added, whereby the City, and the *Pomerium*, that is, the territories of the City were enlarged, and *Rome* called *Urbs septi-collis*, i.e. the City upon seven hills.

*Sed quae de septem totum circumspicit, orbem*

*Montibus, imperii Roma deumq; locus.* *Ovid. Trist. lib.*

*1. Eleg. 4.*

Upon this *Palatine* hill also stood the *Asylum*, or sanctuary of refuge, which *Romulus* opened i in imitation of *Cadmus*, who at the building of *Thebes* was said to have opened a sanctuary of refuge, whither whatsoever malefactor could escape, were he bond or free, he was not to

*e Rosin. ant.*  
*f Sig. de jur.*  
*Rom. l. 1. c. 2.*

*g Rosin. ant.*  
*f. 1. c. 4.*  
*b Vid. Serv.*  
*in Aen. l. 8.*

*Alex. Ges.*  
*Grec. l. 3. c. 2.*  
*ubi plura le-*  
*ctione digna*  
*de Asylis,*

be punished. It was much like unto a custom of the people in the City *Croton*, who flying unto the altars of their Gods, obtained the forgiveness of faults not voluntarily committed. Whence these two phrases are expounded alike, *Ad te tanquam ad Aylum*, and *Ad te tanquam ad aram confugimus*, i. e. we fly unto thee as our only refuge.

C A P. 3.  
*De monte Capitoline.*

**T**HIS hill was famous for three names : it was called *Capitolium*, *mons Tarpeius*, and *mons Saturni*. It was named *Saturni* hill, 1 from the heathenish God *Saturn*, who vouchsafed to undertake the protection of that place. It was named the *Tarpeian* hill, 1 from *Tarpeia*, one of the Vestal Nuns, daughter to the chief keeper of the Capitol, (this hill being the Castle of defence for the whole Town) for this *Tarpeia* betrayed the Capitol into the enemies hands, bargaining to have the golden bracelets upon her enemies left hands for this her treason. Now the enemies when they were admitted in, did cast, not their bracelets alone, but their bucklers also upon her, through the weight thereof she was pressed to death : upon which occasion the whole hill was afterwards called the *Tarpeian* Mount ; but more principally a certain rock of that hill called *Tarpeia rupes*, from whence meleactors were sundry times tumbled headlong. The same was likewise called the *Capitol*, because when the foundation of a certain Temple, built in the honour of *Jupiter*, was laid, a mans head, full fresh and lively, as if it had been lately buried, *in* yea hot blood issuing out of it, was found there. *n* *Arnobius* saith, that the name of this man being alive was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

1. Rosin. ant.  
1. 1 c. 5.

2. Plutar. in  
Romulo.

3. Dion. Hal-  
tar. 1. 4.  
*n* Lips. de  
magnitud.  
Rem. c. 5.

C A P.

C A P . 4.  
*De colle Quirinali.*

This hill being in former times called *Agonalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made between the *Romans* and the *Sabines*) though some would therefore have it named *Quirinalis*, because there was a Temple erected in the honour of *Romulus*, called also *Quirinus*. It was called in the time of the Emperors, *mons Caballus*, that is, the horse hill, taking its denomination from two marble statues of *Alexander* taming his horse *Bucephalus*, which statues *Constantine* the Emperour brought to *Rome*, and placed them in the midst of certain *Bathes*, which he made upon this hill. There do appear in this hill three risings, or hillocks : the one being called *Salutaris*, the other *Martialis*, and the third *Lassaris*. All this may be collected out of *Ant. Rom.*

*l. 1. c. 6.*

C A P . 5.  
*De monte Celio.*

This hill hath his name from a certain *p* Captain of *Alex. Gen.* *Hetruria*, which assisted *Romulus* against the *Sabines*. *dier. l. 6. c. 11.* On this hill, King *Tullus Hostilius* erected stately edifices, which for a time served as his Palace : but afterward they became the chief Council-house, whither the Senators assembled themselves for the determining of State matters ; and because this *Curia* did far exceed all others, therefore Authors many times use this word *q Curia*, simply without any adjunction, to signify *Curiam Hostiliam*, as if there were no other. It much resembled our Privy Council Chamber, in respect that none might sit there, but only Senators : whereas in the Court house, which *Pompey* built (being therefore called *Alex. Gen.* *dier. l. 1. c. 16*

<sup>y</sup> Rosin. ant. called *Curia Pompeia*) & other City-Magistrates were admitted amongst the Senators: and in *Curia Julia*, i. e. the

<sup>l. 7. c. 5.</sup> Court-house which *Julius* made, were examined for

<sup>f</sup> Rosin. ibid. foreign matters, as Embassages: but in *Curia Hostilia*, do-

metical matters only were treated of, and that only by the

Senators. At this present time this hill is beautified with

<sup>l. 2. c. 9.</sup> many Christian Churches, as the Churches of S. Stephen,

<sup>u</sup> Alex. Gen. S. Paul, and S. John, our Saviours Hospital, &c. &c. It was

dier. l. 6. c. 11. also called *Mons Querculanus*, from the abundance of

Oaks growing there.

## C A P. 6.

## De monte Esquilino.

<sup>x</sup> Rosin. ant. <sup>y</sup> This hill was so named, *quasi x excubitus, ab excubis,*

<sup>l. 1. c. 8.</sup> i.e. from the night-watching which *Romulus* did undertake upon that; somewhat distrusting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillocks, named *Cippins, Oppins, and Septimius.*

## C A P. 7.

## De monte Aventino.

<sup>a</sup> Alex. Gen. <sup>b</sup> The *Aventine* mount took his name a from *Aventinus,*

dier. l. 9. c. 11. <sup>c</sup> a certain King of *Albanum*; which was there bur-

ried. Upon this hill stood *Hercules* his Altar, and cer-

tain Temples consecrated to *Juno, Diana, Minerva, Lu-*

*cina, and Murcia*, i.e. *Venus*: whence the hill hath some-

times been called *Diana* her hill, and *Mons Murcias*.

Upon <sup>b</sup> this Mount *Remus* would have built *Rome*, and

therefore it was called *Remonius mons*: but since it hath

been called *Mons Rignarius*, as it appeareth by *Plutarch*

in the same place. It had moreover the name of the

*Holy Mount*, being called in Latine *Mons sacer.*

<sup>b</sup> Plutar. in  
Romulo.

C A P.

of the chief parts of the City.

CAP. 9.

De monte Viminale.

Because of the abundance of wicker twigs, which did grow upon the hill, it was called *Mons Viminale*, *Vimenes* signifying a twig or Ozier. I am not ignorant, that some would have this hill to be named *Viminellus*, from *Jupiter Viminensis*, whereas *Jupiter* himself was named *Viminensis* from this hill, because he had here many Altars erected in the honour of them. Both this hill, and *Jupiter*, were called *Fagutales*, from *sylva fagae*, i. e. a cops of Beech-trees, which did grow thereupon. *Vid. Rosin. antiqu. l. 1. c. 9.*

CAP. 9.

De tribus collibus adiectis.

Three other hills there were, which in process of time were added unto the City, which partly because they were not included within the *Pomerium* so soon as the other, but chiefly because they were not of such note, therefore *Rome* retained the name *Septi collis*. The first of those hills was called *Collis Hortulorum*, i. e. the hill of Gardens, so termed because of the many Gardens near adjoyning. *d* Here was the Cirque, or the shew-place of the strumpet *Flora*, which made the people of *Rome* heir to those goods which she had gotten by prostituting her body to young Gentlemen, leaving also a certain summ of money to procure a celebration of her birthday: which because of her infamy, the people shaming to do, they feigned her to be the Goddess of flowers, and that she must be first appeased by sports and playes, performed in the honour of her, before the trees and fruits of the earth would prosper; *e* and that they might gain the better credit unto this their fable, they add further, that she was once called *Chloris*, and was married

*d. Barr. Lat. in Verri. Orac. 7.*

*e. Lactant. de fal. relig. l. 2. c. 20.*

unto *Zephyrus*, from whom by way of dowry she received power over the flowers. The second was called *Janiculus*, from *Janus* that two-faced God: who as writers testify, was there buried. It did lie beyond the river *Tiber*, and hath now changed its name, being called from the yellow sands, *Mons aureus*, and through negligence of the Printer, *Montorius*, *id est*, the Golden Mountain. The third was famous for the many divinations, and prophecies uttered upon it, and thence was it named *Vaticanus*, from *Vaticinium*, a fore-telling. *f* It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

*f* Munst. in  
suo Cosmog.  
l. 2. c. 8.

C A P. 10.  
*De Foro Romano.*

**F**orum hath divers acceptations: sometimes it is taken for a place of negotiation, or merchandizing, which we call a *Market-place*: and being taken in this sense, it hath commonly some adjective joyned with it, as *Forum boarium*, the beast-market; *Forum piscarium*, the fish-market; *Olitorium Forum*, the hearb-market: other times it is taken for any place wheresoever the chief governor of a Province doth convocate his people together, there to give judgement according to the course in law: whence a man is said, *Forum agere*, *g* when he keeps the *Affizes*, and *Forum indicere*, when he appointed the place where the *Affizes* shall be kept. *3.* It is taken for a place, where controversies in Law are judicially determined, and Orations are had unto the people. At first, of this sort were only three, *Romanum*, *Julium*, and *Augustum*, as is clearly evidenced by that of *Martial*,

*Argue erit in triplici par mihi nemo foro.*

Afterward the number was increased to six distinct *Forums*: One called *Forum Julium*, because it was built by *Julius Cesar*. A second was added by *Oktavius Augustus*, called therefore *Augusti Forum*. The third *Forum* was founded

*g* Hubert. in  
Cic. l. 3. ep.  
fam. 6.

founded by *Domitian* the Emperour: but, by reason of his sudden death, *Nerva* had the finishing thereof. It had the name of *Forum Transitorium*, the transitory *Forum*; because there was *Transitus*, *id est*, a way or passage through it into three several Market-places. The same *Martial* calleth it sometimes *Forum Palladium*, because in the middle thereof a Temple was erected in the honor of *Minerva*. A fourth was added by the Emperour *Trajanus*, wherein was erected a stately Column or Pillar 140. cubits high, having all the noble exploits performed by *Trajanus* engraven in it. Another was called *Salustii Forum*, because *Salust* bought it, with divers Gardens adjoining, which since have been called *horti Salustiani*. The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency, *The Forum*, as if there were no other *Forum*: where we must understand, that as often as *Forum* is used in this latter sense, namely for a pleading place, it is so used figuratively, by the figure *Synecdoche*; for in truth, the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely, that *Chappel* or great building, which they called *Roftra*. Round about this *Forum Romanum*, were built certain *Tradesmens* shops, which they termed *Taberna*, and also other stately buildings, called *Basilica Pauli*. Here was the *Comitium*, or Hall of Justice; the *Roftra*, *id est*, the Orators Pulpit; *Saturns* Sanctuary, or the common Treasure-house; and *Caiors* Temple: of all which in their order.

*b Lipsius de  
magnitud.  
Rom. l. 3. c. 7.*

*i Hen. Sal-  
muto in Pan-  
cirol. lib. re-  
rum deperdit  
cap. de Basil.  
& taber.*

**C A P . I I .**  
*De Basilicis.*

**B**asilicas were upper buildings of great state and much cost, being supported with *Pila*, *id est*, flat sided pillars; and having underneath them walks, much resembling our Cloysters, saving that the *Intercolumnia*, or

space

1 Sigan. de  
judiciis. l. 1.  
c. 28.

space between the pillars, lay open unto the very ground. That they were upper buildings, may be collected by the custom of many men, which were wont to walk under those Basilical buildings, and therefore were called *Subbasilicani* by *Plautus*. The use of these were principally for the Judges to sit in judgement; but in their absence it was lawful for Merchants to deal in their businesses. Those of chief note were three, thus named, *Plautia*, *Porcina*, & *Julia*.

C A P. 12.

*De Comitio.*

1 Sigan. de  
jud. l. 1. c. 7.

**C**omitium was a part of the *Forum Romanum*, being a great large Hall of Justice, which for long time was open at the top, having no covering, and for that reason the Assemblies were often dissolved in rainy or unseasonable weather. In it stood the *Tribunal*, being a place erected up on high in form of our Pulpits, but many degrees higher, and in the midst thereof the *Sella Curulis*, id est, the Ivory Chair, from whence the chief Magistrate administered Justice, other inferior Magistrates sitting on benches on each side, which were called *Subsellia*, because they were lower than the Tribunal. Those which sat upon these benches had power *cognoscere*, but not *pronunciare*; much like our Justices at Assizes, which may examine or inform against a malefactor, but not condemn him. Where we may observe the difference between *Comitium*, signifying such an edifice or building, and *Cowisia*, signifying the *Roman* Assemblies; both being called *comitudo*. This Hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendered thus by some; that in this *Comitium*, *Attius Navius* did once with a razor cut in two a whetstone, and in memory thereof, his statue was erected, with an hat upon his head, for *Puteal* properly doth signify the cover of a well, but in a large acceptation, it signifieth

signifieth a broad brimmed hat, as *Celius Rhodiginus* noteth in the same place, *n* *Cicero* toucheth this: *Cotem  
illum, & novatulam defosam in comitio, supraque imposi-  
tum Puteal accepimus*. But why it should be called *Puteal*  
*Libonis*, is yet doubtful, except haply *Libo* was the  
first erector of this statue. That it was a common  
Court, and known place of Justice, *Horace* witnesseth,  
*Roscins orabat, sibi adcesses ad puteal cras.*

*n* *Cic.* de di-  
vinat.

C A P. 13.

*De Rostris.*

**N**ext to the *Comitium* stood the *Rostra*, a goodly fair  
Edifice, in manner of the body of a Cathedral  
Church: In it stood an Orators Pulpit, deckt and beauti-  
fied with the stems of many Ships, which the *Romans*  
got from the people of *Antium*, in a memorable battle  
upon the Sea: And o hence from those Ship-beaks,  
called in Latine *Rostra*, hath this place taken its name.  
It may be Englished, the great Oratory, or place of  
*Common-plea.*

*o* *Hubert.* in  
*Cic.* ep. lib. 1.  
ep. fam. 1.

C A P. 14.

*De Templo Castoris.*

**A**nother part of the *Forum* was a Sanctuary builte  
in the honour of *Castor* and *Pollux*: the reason  
thereof was because they appeared unto the *Romans* in  
the Latine war, in the likenes of two Angels sent from  
Heaven to lead the *Roman* army, and to assist the Ro-  
mans against the *Latines*: who being vanquished, they  
suddenly were departed out of the field, none knowing  
how, and even in the same moment they appeared up-  
on their sweating Horses unto the *Roman* Citizens in  
the *Forum*, who taking them for Souldiers, demanded  
what news they brought home from the Camp: they  
replied, that the *Romans* were Conquerors: which news  
being delivered, they suddenly vanished and were seen

no more. Upon this occasion did *A. Posthumius*, being at that time *Dictator*, build a Temple, in that place of the *Forum* where they were seen, in honour of them both: Although in the after-ages, it had the name only of *Castors* Temple. Whence arose the jest of *M. Bibulus*, against his fellow-Consul *Julius Caesar*, saying, *p* it fared with him, as it did with *Pollux*, *idest*, as this Temple which was erected in the honour of both the Brethren, carried the name only of *Castors* Temple; so the great expences in exhibiting Shews in the time of their Consulship, though they were deeper on *Bibulus* his side, yet *Caesar* carried away all the thanks and credit. In so much that the people being wont to subscribe the names of both Consuls at the end of their Deeds and Charters, for a remembrance of the year; that year they wrote, such a thing done, not *Bibulus* and *Caesar*, but *Julius* and *Caesar* being Consuls.

## C A P. 13.

De *Aede Saturni*.

*q* Plutar. in  
Publicola.

*r* Alex. Gen.  
dier. l. 4. c. 15.

*s* Alex. Gen.  
dier. l. 2. c. 2.

**S**aturns Sanctuary *q* was the common Treasure-house, wherein the Subsidy money which the Commons paid unto the Treasurers, called *Quæstores*, was to be laid up: whereof divers conjecture diversly. *Alex. and. Neop.* *r* saith, that *Saturn* found out the use of brazen money: and therefore this Temple might be thought the fittest place for the Treasury. *Plutarch* thinketh rather, that the making of the Treasury in that place, did allude to the integrity of time wherein *Saturn* reigned, being the Worlds golden Age. But *s* the most received opinion is the strength of the place, whereby it was the safer from thieves. The Temple, by reason of the use it was put unto, was called *ararium*, from *as*, i.e. *Brass*: which name now is common to all Treasure-houses; for that the first money used by the *Romans* was of that mettal, untill the year of *Rome* 485. (as *Pliny* witnesseth,

witnesseth, lib. 3. cap. 33.) <sup>x</sup> Some are of opinion, that before the use of Brals, they made money of Leather, whence *Numa Pompilius* is said to have given Leather money in a dole unto the people. Touching their order observed in the Treasury, we must understand that their care in providing against sudden dangers was such, that they laid aside the twentieth part of their Receipts, which they <sup>u</sup> called *Aurum vicefimarium, Incensarium,* and *Cimiliarchium*, into an inner Chamber, or more sacred room, named in Latine *Ararium sanctius*. <sup>x</sup> We may read also of a third Treasury, called *Ararium militare*, wherein *Augustus* had appointed that the twentieth part of certain Legacies should be laid up to defray charges in extraordinary wars; where it lay so priviledged, that it was a capital crime to use any of it, but in extream and desperate necessity. Notwithstanding, howsoever it was used as a Treasure-house, <sup>x</sup> yet divers Authors testifie that the Acts of their Senate, the books of Records, together with such books as <sup>were</sup> for their immeasureable bigness called *libri Elephantini*, wherein all the names of their Citizens were registered, and also their Military Ensigns were contained there. <sup>y</sup> And from those Statute-books called *Tabula publica*, this Treasury was also called *Tubularium*, because they were laid up there. <sup>z</sup> well it is not to be told

<sup>u</sup> Alex. Gen.  
dier. 1. 4. c. 15.

<sup>x</sup> Serv. 1. 2.  
Virg. Georg.

<sup>x</sup> Alex. Gen.  
dier. 1. 2. c. 2.

<sup>y</sup> Plutar. in  
luis problemz  
vid. Franc.  
Sylvium in  
Catalinar. 4.

C A P. 16.  
De Campo Scelerato.

**C**ampus sceleratus, the field of execution, lying with-  
in the City, joyned to the gate *Celina*. It was the  
place where the Vestal Nuns, if they were deflowered,  
suffered punishment after this manner. There <sup>z</sup> was  
made a Vault under the Earth, with a hole left open  
above, whereby one might go down, within there was a  
little couch, with a burning lamp and a few vizards, whi-  
ther the defiled Vestary was to be brought through the

<sup>z</sup> Munit: in  
sua Cosmog.

<sup>4</sup> Plutar. in  
Numa.

Market-place in a litter so closed up with thick leather, that her mournings might not be heard to the moving of pity. She being thus brought to the place of execution, was let down by a ladder into a hollow Cave, and the hole presently stopped. And the reason why they suffered such a kind of death, was, because they thought it not fit that they should be burnt with fire, which kept not the sacred fire with greater sanctity: and it was thought unlawful to punish them by laying violent hands on them, because they had in former time served in so holy a function.

## C A P. 17.

## De Campo Martio.

*b* Rosin. anti. *L. 2. c. 11.* **T**He *b* *Campus Martius*, otherwise called *Tiberinus*, (because it was near the river *Tiber*) was given unto the *Roman* people, by *Caja Tarratia*, a Vestal Virgin: but *Tarquinius Superbus*, the last King of *Rome*, did take it from the people, converting it to his own private use, insomuch that he sowed Corn there; which, when he was deposed, the *Romans* did cast into the River *Tiber*, judging it unfit that any man should reap any commodity from so holy a ground. In process of time, the sheaves of Corn being stopped in a shallow foard of the River, became firm ground, and was called, *The holy Island*, or *Æsculapius his Island*: and presently after the expulsion of *Tarquinius*, this *Campus Martius* was restored unto its former use. Besides the natural pleasantnes of the place it self, it was beautified with many ornaments brought out of the *Capitol* (the *Capitol* being too full) as likewise with divers images of well deserving men. Hither did the younger sort of *Romans* come to exercise Chivalry, namely, the Horse-race, the foot-race, wrestling, fencing, casting the bowl, the fledge, the dart, using the sling, the bow, vaulting, with such like; and upon this occasion it was dedicated to *Mars*, and called by *Strabo*, *The*

*The Romans great School of Defence.* c The manner of <sup>c</sup> *Caſt. Rhod.* vaulting was, in riding, to leap from one horse back up, <sup>1.21. c.29, 30.</sup> on another, their custom being for their horſemen in war, to lead a ſpare horſe in their hands, beſides that whereon they did ride, that when the one did ſweat, they leaped upon the others back; a *defiliendo*, thofe horſes were called *Equi defultorii*; whence an uncoſtant, wavering and unſetled mind, which *Seneca* calls *Volatilum ingenium*, others have called *Defultorium ingenium*. In this field were men of beſt note burned when they died. Here were the Kings and other Magiſtrates at firſt created. In this *field* of *Mars* also was a place, at firſt railed like a ſheep-pen, called therefore *Ovilia* or *ſepta*; but afterwards it was mounted with Marblē ſtone, beautified with ſtately Walks and Galleries, and alſo with a Tribunal or Seat of Juſtice, within which precinct the people ofteentimes assembled to give their ſuffrages to-wards the eleſtion of Magiſtrates. The means of aſcending up unto theſe *Ovilia* was not by ſtairs, but by many bridges made for that time, every Parish in the Aſſembly of Parishes, and every Tribe or Ward in the Aſſembly of the Tribes, and every hundred in the Aſſembly of Centuries having his Bridge: whence this Proverb was occaſioned, *De ponte dejiciendus, id eſt*, he is to be barred from giving his voice. e Theſe Bridges were not made over any river, but over the dry land; whence men were ſaid to be caſt, *Non ut periclitarentur de viſa, ſed ne ſuffragarentur in Comitiis.*

C A P. 18.  
*De Circo Maximo.*

**A**mongſt other places where the *Romans* exhibited their Playes unto the people, the moſt remarkable was a great Cirque, or Shew-place, called in Latine *Circus Maximus*. It was a large piece of ground, lying near that part of the *Aventine Mount*, where *Di-*

<sup>d</sup> *Servius in Buc. eclog. 1.*

<sup>e</sup> *Joan. Saxonius in Orat. pro S. Roscio.*

naes Temple stood. It was built by *Tarquinius Priscus*, with divers galleries round about it, from whence the Senators and Gentlemen of the City did behold the running with great Horses at Lists, the fire-works, tumbling, the baiting and chasing of wild beasts, &c. In former time, all did stand on the ground, being sheltered from the rain by the help of boards upheld with forks in manner of House-Pentices : and this custome continued until the aforesaid *Tarquinius* erected those Galleries, called *Fori*, making thirty distinctions of them, allotting every ward or company their several quarters, all the seats being able to contain one hundred and fifty thousand Parties. <sup>f</sup> Under these places were cels, or vaults, where women did prostitute their bodies, and would buy stoln goods : and for this reason *Horace* calls it *fallacem Circum, id est*, the deceitful shew-place. There was at the one end of their cirque certain barriers, *id est*, places barred or railed in, at which place the horses began the race ; and at the other end was the mark, whither the horses ran : it was called in Latine *Mera*, and the barriers, *carcires à coercendo* ; whence we say, *à carceribus ad metam, id est*, from the beginning to the ending.

## C A P. 19.

## De Theatro.

<sup>g</sup> Loach. Camerata in orat.  
pro L. Flacco.  
<sup>h</sup> Servius l.2.  
Virg. Georg.

The *Theatre* <sup>g</sup> hath his name from the Greek verb *σιω, id est*, to behold : because the people flocked thither to behold playes and shews exhibited to them. The custome <sup>h</sup> first sprang from the shepherds, who leading a contemplative life, were wont to compose dialogues in meetre, and at their leisure to recite them under the trees press'd down in the form of an arbor : whence this theatrical term *σκηνη* hath been derived from *σκηνη* a shadow, but afterwards learned Poets composed Comedies, and Tragedies, which were publickly acted in the City, upon a stage : and although at the first it was counted infamous to frequent them, yet

yet afterwards the *Senators* themselves, yea, the *Emperour*, & all the chief of *Rome* assembled thither, ; Neither for a long continuance were there any seats built, but Commons, and Nobles promiscuously one with another, all stood on the ground : insomuch that those which stood behind, raited up places with turfs of earth, which gave the people occasion to call the places between those turfs and the scaffold, *Cavea*, *id est*, a cave or den : yea the people that stood there, were so called from the place. Though the Theatre be now taken only for the stage ; yet then by it was understood the whole room where these playes were acted : and it had divers parts ; some proper to the actors, some to the spectators. To the actors first belonged the *proscenium*, *id est*, the house whence the players came, where they apparell'd themselves, though sometimes it is taken for the Scaffold or stage it self : secondly, the *pulpitum*, *id est*, the stage or scaffold upon which they acted : and thirdly, the *scena*, that is, the partition, which was commonly made of wood, not of hangings. Now that they might change their Scene according to their pleasure, they made it *versatile*, *id est*, so that with engines it might upon the sudden be turned round, and so bring the pictures of the other side into outward appearance : or otherwise *duetilem*, *id est*, so that by drawing aside of some wainscot shuttles ( which before did hide the inward painting ) a new partition might seem to be put up : and I think, because those shepherds did act no more at a time then one of our *Scenes*, hence have we distinguished our plaies into so many parts, which we call *Scenes*. The places which were proper to the Spectators, were distinguished according to their degree and rank ; for the remotest benches were for the *Commons*, and call'd *popularia*, the next for the *Knights* & *Gentlemen* of *Rome*, called therefore *Equeſtria* ; the others wherein the *Senators* did sit, were commonly called *Orchestra* : this may be collected out of *Lipſius. m Cael. Rhodiginus* saith that the

*¶ Servius l. 3.  
virg. Georg.*

*l Lipſius de  
amōichi. c. 14.  
m Cael. Rhod.  
Orchestra lib. 8. c. 8.*

*Orchestra* was that place joyning to the Stage, where *Chorus* spake to the people at the end of every act. Divers authōrs are of *Cæl. Rhod.* his opinion, deriving the word *Orchestra*, from the Greek ὄρχισμα, to dance : but it seemeth more probable to have been a peculiar place, allotted for the Senators, *Ju. Sat. 3.*

*Æquales habitus illic similemque videbis*

*Orchestrā, & populum-id est, optimates & plebem.*

The whole building made for entertainment of the spectators, resembled a triangle or wedge, sharp towards the stage, and broad behind ; whence the whole was denoted by the name *Cuneus* : when *Cuneus* signified any particular place about the Theatre, then by it we are to understand that which formerly we call'd *popularia*, the place for the meaner sort of people ; whence when we would point out a base and ignoble person, *Inter cuneos residere dictatum*. There was also another kind of scaffold, built quite round, made as it were of two Theatres joyned together, it was called *Amphitheatrum*, and differed from the Theatre, only as the full Moon doth from the half, or a compleat rundle from a semi-circle ; it o resembled an egg. Upon this kind of scaffold did the Masters of defence play their prizes ; and wild beasts were baited. *p In Amphitheatro gladiatoriū ludi, & conclusarum ferarum venationes exhibebantur.* The Amphitheatre it self in the judgement of *Liphius* *q* was termed *Cavea, ab interiore parte qua concava erat* ; and *Arena*, because it was strewed with gravel and sand, that the blood of such as were slain in the place might not make the place too slippery for the combatants. Hence cometh that phrase, *In arenam descendere*, to go into the field : and the combatants were thence called *Arenarii*. Here we must note, that howsoever the Amphitheatre was strewed commonly with common and ordinary gravel, yet sometimes in their extraordinary shews that gravel was covered, & as it were new coated, with the scrapings and dust of some extraordinary stones, to add the greater

*n Cæl. Rhod.  
lib. 8. cap. 8.*

*o Turneb. ad-  
vers. lib. 5. c. 5.*

*p Hosp. de.  
orig. fest.*

*q Lip. de  
Amphith.  
c. 2. & 3.*

*r Plin. lib. 36. lufre unto it ; thus much *r* Pliny intimateth, *Invenere & alium**

alium usum ejus lapidis, in ramentis quoque Circum maximum sternendi, ut si in commendatione & candor, &c. Again, sometimes the hollow places or dens under the *Amphitheatre*, in which the wild beasts were kept, and likewise men to be committed with wild beasts, out of which these were let loose by the lifting up of trap doors to be hunted or baited upon the *Amphitheatre*, were called *Cavea*. For we must know that the *Amphitheatre* was full of hollow passages for many reasons, as for the convenient keeping of wilde beasts and beastiaries, so sometime for the better conveying of waters thither, by the means whereof *real ships and Sea-skirmishes were oftentimes exhibited upon the Amphitheatre.*

*Sueton. in  
Domitian.*

## C A P. 20.

**M**oreover for the better understanding of Classical Authors, it will not be impertinent to point at the general names by which the Religious places were call'd, and to declare the proper acceptation of each name: the names being these, *Templum*; *Fanum*; *Delubrum*; *Ædes sacra*; *Pulvinar*; *Sacrarium*; *Lucus*; *Scrobisculus*; *Arus*; *Altare*; *Focus*.

*De Templo.*

This word *Templum* doth sometimes signifie those a spaces and regions in the ayr and earth, which the *Anguines* did quarter out with their crooked staff at their South-saying, sometimes it doth signifie a sepulchre or grave, & because in old time men did superstitiously pray and worship at the Tombs and Monuments of their deceased friends, as if it had been in *Temples* or *Churches*; and in this sense may *Virgil* be understood;

*Præterea fuit ant hanc de marmore Templum  
Conjata et aliquis.*

Most commonly it doth signifie a *Church*, or *Temple*; in which sense as often as it is used, it is e said a *templando*, from beholding; because when we be in the *Church*, by lifting up our hearts by a divine contemplation, we do as it were behold the great *Majesty* of *God*.

*a Rosin. ant.  
l.2.c.2.*

*c Lilius Gy-  
rald. de diis  
gentil. syntag.  
17.*

*d Lib. 4. Æne-  
id. v. 457.*

*e Franc. Sylvi-  
us in orat. pro  
L. Murzen.*

D

De

## De Fano.

It is also called *Fanum a fando*, from speaking ; not from the speaking of the Priest, but because the people do there speak unto God, and God again to the people. *f* Some are of opinion, that *Fanum* in propriety of speech, signifieth the *Churchyard*, or court before the Temple; *Templum* signifieth the Edifice or Church built.

## De Delubro.

Thirdly, a Church was called *delubrum*, *Synedochicæ*; because it was the principall part of the Church, namely the place where the Idol-god stood; and it was called *delubrum* from *Dens*; *g* as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward form of the Churches, some were uncovered, because they counted it an hainous matter to see those Gods confin'd under a roof, whose doing good, consisted in being abroad; other-some covered; some round, some otherwise; but within they much resembled our great Churches. They had their *pronaos*, or *Church porch*, whereabouts they were wont to have the image of the beast *Sphynx*, which was so famous for his obscure riddles; so that by this image was signified, that the oracles of the Gods, which were treated of within the Church, were dark and mystical. They had certain walks on each side of the *body of the Church*, which they called *porticos*; and in these places it was lawful for them to merchandize, make bargains, or confer of any worldly busines; as likewise, in the *basilica* or *Body* it self. But their *Quire*, called *Chorus*, was counted a more holy place, set apart only for divine service. The manner of hallowing it, was as followeth. When the place where the Temple should be built, had been appointed by the *Augures* (which appointing, or determining the place they called *Effari templum*, & *scire Fana*) then did the party, which formerly in time of need upon condition of help from the Gods, had vowed a Temple, called together the *Auspices*, which should

*f* Turneb.  
adver. lib. 3.  
c. 9.

*g* Rofin. ant.  
l. 2. c. 2.

should direct him in what form the Temple should be built ; which being known, certain ribbands, and fillets were drawn about the *area* or plot of ground, with flowers and garlands strewed underneath, as it was probable, to distinguish the limits of this ground now to be hallowed. Then certain souldiers marched in with boughs in their hands, and after followed Vestal Nuns, leading young boyes and maids in their hands, who sprinkled the place with holy water. After this followed the *Prator*, some *Pontify* going before, who after the *area* had been purged by leading round about it a Sow, a Ram, and a Bull, sacrificed them, and their entrails being laid upon a turf, the *Prator* offered up prayers unto the Gods, that they would bless those holy places, which good men intended to dedicate unto them. This being done, the *Prator* touched certain ropes, wherewith a great stone being the first of the foundation, was tyed together with that, other chief Magistrates, Priests, and all sorts of people did help to pluck that stone, and let it down into its place, casting in wedges of gold and silver, which had never been purified, or tryed in the fire. These ceremonies being ended, the *Aruspex* pronounced with a loud voice, saying, *Ne temeretur opus, saxo anrove in aliud destinato; id est*, Let not this work be unhallowed, by converting this stone, or gold into any other use.

*De Aedes sacra.*

Fourthly, a Church was called *Aedes sacra*, an holy house, because of the sacrifices, prayers, and other holy exercises performed therein. Although (as *Gellius* hath long since observed) every holy house was not a Church. For the proper note of distinction between a Church and a religious house was this, that a Church, beside that it was dedicated unto some God, it was also hallowed by the *Augures*, without which hallowing the edifice was not called a Church, but a religious house: of which sort was the Vestal Nunnery, and the common

<sup>1</sup> Barthol. Law-  
tonus in  
Philippic. 4.  
am.

Treasury, called *Ædes Saturni*. We may add hereunto this word *Pulvinar*, which doth often signify a Church; the reason being taken from a custom amongst the *Paganis*, who went in their Churches to make certain beds in the honour of their Gods, and those beds they called *Pulvinaria*, from *Pulvis*, because they were fill'd with dust or chaff.

#### *De Sacrario.*

<sup>4</sup> Cic. pro  
Milione.  
<sup>1</sup> Franc. Syl-  
vius in orat.  
pro L. Muræn.

Sometime *k* *Sacrarium* signifieth a Temple, though properly it signifieth a Sextry or Vestry, *semper i Sacrorum repositorium.*

#### *De Lucis.*

Near unto divers Temples stood certain groves dedicated to some of the Gods: they were called in Latine *Luci*, *non Incendo*, as divers say, by the figure *Antiphrais*. But others are of a contrary opinion, giving it that name, because of the exceeding light it had in the night time, by reason of the sacrifices there burnt.

#### *De Scobiculo, Ara, & Altari.*

The places upon which they sacrificed either in their religious houses, or their groves, were of three sorts: which we in English term Altars: but the *Romans* distinguished them by three several names, *Scobiculus, Ara, & Altare.*

#### *De Scobiculo.*

<sup>m</sup> Alex. Gen.  
dier. I. 5. c. 16.

<sup>m</sup> *Scobiculus* was a furrow, or pit containing an Altar in it, into which they poured down the blood of the beast slain, together with milk, honey, and wine, when they sacrificed to an infernal God.

#### *De Ara.*

The second kind of Altar was called *Ara*, either *ab aranda*, because their sacrifices were burned upon it: or from their imprecations used of that time: which in Greek they called *ἀπό*. It was made four square, not very high from the ground, or as some say, close to the ground: and upon this they sacrificed unto the terrestrial Gods, laying a turf of grass on the altar: and this gave *Virgil* occasion

occasion to call them *Aras gramineas*, i. est., grassie Altars. <sup>a</sup> Virg. En. 11.

*De Altari.*

The third sort was called *Altare*, either because it was exalted, and lifted up somewhat high from the ground; or because he that sacrificed (by reason the Altar was so high) was constrained to lift up his hands *in altum*, on high: and upon this they sacrificed unto their celestial Gods only. <sup>b</sup>

*De Foco.*

*Focus* is a general name, signifying any of these altars: so called à *fovendo*: because as *Servius* hath observed, that is *focus*, *quicquid foveat ignem, sive ara sit, sive quicquid aliud in quo ignis foveatur*. But in strict propriety of speech, it is taken for that Altar, on which they sacrificed to their domestick Gods, such as were their *Penates* or *Lares*; as it appeareth by *Plautus*, <sup>c</sup>

<sup>b</sup> Serv. in Eu. col. eclog. 5.

<sup>c</sup> Aulular. Act. 2. Sc. 5.

*Hac imponentur in focum nostro Lari,*

*Ut fortunatus faciat gnata nuptias.*

Whence ariseth that Adage, *Pro aris & focis certare*, sounding as much as to fight for the defence of religion and ones private estate: or (as our English proved is) for God and our Country: the proverb being in its original, part of the oath that was administered unto the *Roman* Souldiers; and thus it is expounded by *q Turnebus*. <sup>d</sup>

<sup>d</sup> Turneb. Adv. 1. 10. c. 7.



## LIB. I. SECT. II.

*The generall Divisions of the  
ROMAN PEOPLE.*

## CAP. I.

*De populo Romano, & ejus prima divisione.*

**H**us having premised a short Treatise concerning the first situation of *Rome*, and the most remarkable parts thereof, I purpose to proceed to the inhabitants, which Antiquity hath styled *Citizens of Rome*. And *Erasmus* rather describing a *Roman* than defining him, saith a *Roman* was grave in his conversation, severe in his judgement, constant in his purpose: Whence *Cicero* in his Epistles often useth this phrase *more Romano*, for *ex animo, id est*, unfeignedly.

**S**igde jur. **S**igonius rendering the definition of a *Roman Citizen*, Rom. I. c. 1. averreth, that no man is *lege optima, id est*, in full and compleat manner a *Citizen of Rome*, but he which hath his habitation there, which is incorporated into a *Tribe*, and which is made capable of *City preferments*. By the first particle, those which they term *Municipes*; by the second, those which they call *Inquilini*; and by the third, those which they call *Liberissimi*, are in a manner disfranchised. But whereas *Sigonius* saith, that they must have their habitation at *Rome*, he would not be so understood, as if a *Roman Citizen* might not remove his habitation

habitation to any other Countrey ; For, saith he, a *Roman* Citizen may be as long absent from *Rome*, and the fields belonging to *Rome*, as he pleases, so that he suffer himself to be fessed and taxed in common with others toward the subsidy-payments, and denyeth to be incorporate into another City. For *T. Pomponius* was a true Citizen of *Rome*, though he dwelt at *Athens*. The *Roman* Citizens being by these priviledges, as by a more proper and peculiar character, distinguished from other people, and being planted in the City according to the appointment of *Romulus* their King, it seemed good unto him to divide them into *b Tribes*, not taking the note of distinction only from the divers places they then inhabited, as we read that *Servius* the sixth King of *Rome* did, making therefore four Tribes *romanae*, local, namely *Suburbanam*, *Palatinam*, *Collinam*, and *Esquilineam*, (which number of local Tribes in process of time increased unto the number of 35.) but dividing them according to their several Nations, which at the first were *donati civitate*, *id est*, made free Denizens of *Rome* : and (they being in number three. 1. The *Sabines*, which were named *Tatenses*, from their King *Tatius*. 2. The *Albanes*, called *Rhamnenses*, from *Romulus*. 3. Other Nations promiscuously flocking out of other Countries to the Roman *Aylum* placed in a grove called in Latine *Lucus*, which gave *Romulus* an occasion to name them *Luceres* : ) he made in all three Tribes *nigri*, or national. After that *Romulus* had thus divided the whole body of the *Romans* into three Tribes, he then subdivided each Tribe into ten lesser numbers, which he called *Curia*, or Parishes : and then followed five other divisions in respect of their different degrees and callings : of which in their several order.

*b Sig. de jur.  
Rom. l. 1. c. 3.*

**CAP.**

## C A P. 2.

*De prima divisione Romanorum, in Senatores five Pa-  
tres, Patricios five Patronos, & Plebeios five Cli-  
entes.*

The first division of the *Romans* in respect of their degree and place, was this; The elder, wealthier, and gravest sort of *Romans*, were called sometimes *Patricii*, either because of their age or gravity; or because they had many children (for great privileges were granted unto fathers of three children;) and sometimes *Patroni*, because they were as *Patrons* and fathers in helping and assisting the causes of the common people seeking to them. The younger, poorer, and simpler sort were called, as they had relation to the *Patricii*, *Plebeii, id est*, the Commons; as they had relation to their *Patroni*, they were named *Clientes, id est*, Clients: between whom there was such a mutual and reciprocal intercourse of love and duty, that as the *Patrons* were ready to protect their *Clients*, so the *Clients* were bound with all faithfulness to cleave unto their *Patrons*: and that not only to credit them with their attendance in publick Assemblies, but to disburse out of their own purses towards the bestowing of their daughters, the paying of publick muls, the giving of largesses in suing for offices, &c. Neither was it lawfull for either of them to inform, to depose, to give their voices, or to side with adversaries one against another, without the guilt of treason; for which crime of treason they were *dis infernos deponi*, curst to hell, and the law gave liberty for any man to kill them. Out of the *Patricii* did *Romulus* elect 100 counsellors to assist him in determining matters concerning the Common-weal: to these did *Romulus* after add another 100. and *Tarquininus Priscus*, as divers Authors testifie, made them a compleat 300. which they called *Patres*, or *Senatores*, and their sons *Patricii*. But in progres of time the

*e Lazius de  
Repub. Rom.  
l. 12. c. 3.*

the Commons also were eligible into a *Senators* place. Some say that *Tarquinius Priscus* added the second hundred to the *Senate* out of the Commons, & who are called *Senatores minorum gentium*, id est, *Senators* of the lower house. *Brutus* added the last hundred, and made them 300. at what time they began to be called *Patres conscripti*. And this accordeth with *Joannes Ros* in his Epitome of the *Roman History*; in his *Ch. de Regibus Romanis*: where he saith, that *Tarquinius Priscus* did double the number of the *Senators*: And likewise *e Alexander Neop.* saith, that *Brutus* made them compleat 300.

*d Mart. Philericus in Cic.*  
*l. i. ep. fam. 1.*

*e Alex. Gen.*  
*dier. l. 2. c. 29.*

C A P. 3.

*De secunda divisione Romanorum in tres ordines: Senato-*  
*rium, Equestrem, Popularem, seu Plebeium.*

**A**fter that through *Tarquinius Superbus* his Tyranny, the very name of a King became odious to the *Romans*, not only the present King was exiled, but the Authority of a King ever afterward detested and perpetually abrogated; so that the office which was before Monarchical, then was divided between two, called *Consuls*: neither were they admitted for any longer space than one year. At which time of change the *Romans* were divided into three orders or ranges. 1. Into *Senators*, of whom before. 2. Into *Gentlemen*, called of the *Romans*, *Ordo Equestris*: by which we do not understand those 300. *Celeres*, id est, Pensioners, called sometimes *Equites*, for that was a place of service, this a title and token of gentility; who although they were inferior to the chief *Senate*, yet they were of great esteem among the *Romans*, and although they might not wear the same Robe as the *Senators* did, namely the *Laticlavium*, or garment bespotted with flourishings of purple silk in manner of broad nail heads; *f* yet they might wear the *Augusticlavium*, a garment differing from the former only in this, because the purple studs, wherewith it was

*f Rosin. ant.*  
*l. 1. c. 17.*

E purfled,

perfited, was narrow, and not so large as the *Laticlavis*. They also at the time of their Election received from the *Censors*, a horse called by them *Equus publicus*, because of the yearly allowance out of the common Treasury to keep him : it was also called *Equus militaris*, because of their service in war (g they having their horses kept as well in peace as war.) They received also a gold ring, b whereby they were distinguished from the populace : for it was not lawful for any to wear a gold ring under the degree of a Senator, or a Gentleman. The estimation and value of a Senators estate ; until *Augustus* his time, was *octingentas eftertia*, that is 6000.l. k Of a Gentlemans estate, it was *quadrigentas eftertia*, i.e. of our English money 3000.l. 3. The third order or degree in the *Roman* Common-wealth, was *Populns*, the Populacy, or *Commons*, which should exercise trading, manure the ground, look unto the cattle, &c. Where by the way we must understand, that the baser sort of the *Romans* which did wander up and down, to and fro, not settling themselves to any vocation, were not contained within this division, for unto them there was no name vouchsafed, but according to the Poet, they were *fine nomines turba* : or as *Livy* saith, *ignora capita*, men of no account, and therefore of no name.

CAP. 4.  
*De tertia divisione in Nobiles, Novos, & Ignobiles.*

**T**HIS division was taken from the right or priviledge of having Images, for they were accounted Noblemen, which had the Images of their Predecessors : Those which had their own Images only were called *Novi*, that is, late coyned Nobles or upstarts. *Salust* useth this word often in the disgrace of *Tully*, calling him *Novum & repunitum civem*, one that lately crept into the City. The third sort, called *Ignobiles*, were those that had no Images, neither of their Predecessors, nor of themselves. Before

Before we proceed, we must understand, that it was not lawful for who would to have his own Image if he so desired; for none might be thus priviledged, but those alone to whom the right of riding in a Curule chair belonged; and to these the right of Images was permitted, as well for the credit of their house, as to incite others to the like atchivements, when they would consider the divers ceremonies used unto these Images in an honourable remembrance of those whom they did represent. Whence it followeth, that *ius nobilitatis* is nothing else but *ius imaginis*; Insomuch that this word *Imago* doth sometimes signifie nobility, and the right of having Images with them, was the same as the right of having Arms with us. <sup>m</sup> The superstitious conceit which the *Romans* had of these Images was such, that upon festival days, and all occasions of joy and mirth, those Images should be beautified and adorned with garlands and flowers; upon occasion of grief and mourning, they would take ~~is~~ <sup>from</sup> them all their ornaments, making them in a manner partake of their mourning. Some they kept in their private Closets, <sup>n</sup> others they exposed to the publick view of passengers, placing them in the gates of their houses, together with the Swords, Targets, Helmets, Ship-beaks, and such other spoils as formerly they had taken from their enemies; <sup>o</sup> which it was not lawful for any, though they bought the house, so much as to deface. Yea they were so annexed to the freehold, that they passed alwayes in the conveyance of the house. The matter of which they were commonly made, was wax, as that of *Juvenal* doth sufficiently witness,

*p Tota licet veteres exornent undique cera*

*Atria, nobilitas sola est atq; unica virtus.*

Again, we may not think, that they made in wax a compleat statue, or a full portraiture of the whole body, but only for the shoulders upward.

<sup>l</sup> *Sig. de jur.*  
*Rom. l.2. c. 2.*  
<sup>m</sup> *Alex. Gen.*  
*dier. l.5. c. 24.*

<sup>n</sup> *Bart. Lat. in*  
*Verrin. 7.*

<sup>o</sup> *Plin. 25. 1.*

<sup>p</sup> *Juv. Sar. 8.*

## C A P. 5.

*De quarta divisione Romanorum in Optimates & Populares.*

*q Cic. pro.  
Sextio.*

*r Geor. Meru-  
la in orat. pro.  
Ligario.*

**T**HIS fourth division of the *Romans* hath been occasioned through the faction and siding of the Citizens. Those (according to the description of *q Tully*) were *Optimates*, *id est*, the best Citizens, who desired their actions might be liked and approved by the better sort: Those *Populares*, *id est*, popular, who through desire of vain glory, would not so much consider what was most right, as what should be most pleasing unto the populace. So that here by this word *Popular*, we understand not the Commons as formerly we did, *r* but he Senator, Gentleman, or inferior, if he do more desire that which shall be applauded by the major part, than that which shall be approved by the better part, him the *Romans* called *Popular*, *id est*, such a one, that preferreth the popular applause before the right.

## C A P. 6.

*De quinta & ultima divisione Romanorum, in Li-  
bertos, Libertinos, & Ingenuos: Item de Manu-  
missione.*

*f Justin. inst.  
1. 1. tit de in-  
genuis. vid.  
Franc. Sylv.  
in Cartilin. 4.*

**T**HE difference of the freedoms in the City of *Rome*, hath given occasion of this division: for he or she that had served as an *Apprentice*, and afterward was manumised, was named *Libertus*, or *Liberta*. The son whose father and mother were once Apprentices, was called *Libertinus*; but that son whose father and mother were both *Libertines*, or both free born, *f* yea whose mother only was free, was called *Ingenuus*, *id est*, free-born. But after *Appius Cæcus* his Censorship, then began *Liberti* and *Libertini* to signify one and the same degree of freedom: so that *Liberti* and *Libertini* were taken for

## The general divisions of the Roman People.

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for those which served for their freedom, and *Ingenui* were taken for those which were free-born, whether their parents were *Liberti* or *Libertini*. Here is occasion given us to consider the manner of their freedom, and such ceremonies which belonged thereunto. The freedom of the City of *Rome* was three waies obtained ; 1. By *Birth*, both, or at least one of the parents being free ; and such were called *Cives originarii*. 2. By *Gift* and *co-optation*, when the freedom was bestowed on any stranger, or Nation, and they were termed *Civitate donati* : and so we read that *Cesar* took in whole Nations into the freedom. Lastly, by *Manumission*, which was thus : when as the servant was presented by his master before the *Consul* or *Prator*, the master laying his hand upon his servants head, used this form of words, *Hunc liberum esse volo*, and with that giving him a cuff on the ear, he did *emittere servum e manu* : the *Prator* then laying a certain wand or rod called *Vindicta* upon the servants head replied in this manner. *Dico eum liberum esse more quiritum*. Then the *Lictor* or Sergeant taking the wand, did strike therewith the servant on the head, and with his hand struck him on the face, and gave him a push on the back, and after this he was registred for a freeman. Moreover, the servant having his head shaven purposelly at that time, received a Cap as a token of liberty ; whence *ad pileum vocare aliquem*, is to set one at liberty, as likewise *vindicta liberare*. <sup>t P Ramus in orat. pro C. Rabitio.</sup> According to *Tertullian*, at this time of their manumission the servants received from their masters a white garment, a gold ring, and a new name added unto their former. Whole authority if we admit, then the having of three names among the *Romans* was rather a sign of *Freedom*, than of *Nobility*. And that of *Juvenal*,

*Tanquam habeas tria nomina* —

Is not to be expounded, as if you were a nobleman, but, as if you were a freeman. Here we may also consider the two several kinds of servants ; the first were called *servi*,

<sup>u Tert. de res</sup>  
<sup>fur. carn.</sup>

<sup>a</sup> Dion. Halicat. l. 4.

and they could never attain to any freedom, without the content of their master. <sup>a</sup> For those that were thus servi, were commonly captives, either bestowed as a reward upon this or that soldier, or bought *sub corona*, or of other citizens that had gotten them one of these two former wayes: the second were called properly *y nexi & additi*, because though they were free, yet

<sup>y</sup> Sig. de jur. l. 1. c. 31.

by reason of their debt, *addicebantur*, that is, they were delivered up unto their creditors by the *Prator* to work out the debt, so that after the payment thereof, either by money or work, they did recover their liberty; whence they were said <sup>z</sup> *nomina sua liberare*, when they paid the debt; as on the contrary they were said *nomina facere* when they became in debt. And their creditors when they sued for the payment, were said *nomina exigere*: *nomen* in these and the like places signifying as much as

<sup>a</sup> Fr. Silv. in *debitum* a debt, <sup>a</sup> because the creditors did use to write down their debtors names. <sup>b</sup> The manner of suing for their debts was as it followeth; The debt being confessed, thirty dayes were allowed the debtor for the payment of the money (those days of respite they called *dies justos, velut iustitium quoddam*, i. e. *juris inter eos intermissionem & cessationem*.) The money not paid, the debtor was delivered up as a servant to his creditor, yea he was sometimes cast into prison, and unless the creditor were in the mean time compounded with, he remained three-score days in prison, and three Market dayes one after the other being brought before the Judge, the debt was solemnly proclaimed, and upon the third Market day he was either sold to forreigners for a slave, or else was punished with death, each creditor being suffered, if he would, to cut a piece of his dead body in stead of payment.

<sup>z</sup> Mic. Toxita in orat. pro P. Quidtio.

<sup>a</sup> Fr. Silv. in *debitum* a debt, <sup>a</sup> because the creditors did use to write down their debtors names. <sup>b</sup> The manner of suing for their debts was as it followeth; The debt being confessed, thirty dayes were allowed the debtor for the payment of the money (those days of respite they called *dies justos, velut iustitium quoddam*, i. e. *juris inter eos intermissionem & cessationem*.) The money not paid, the debtor was delivered up as a servant to his creditor, yea he was sometimes cast into prison, and unless the creditor were in the mean time compounded with, he remained three-score days in prison, and three Market dayes one after the other being brought before the Judge, the debt was solemnly proclaimed, and upon the third Market day he was either sold to forreigners for a slave, or else was punished with death, each creditor being suffered, if he would, to cut a piece of his dead body in stead of payment.



## LIB. II. SECT. I.

*The general Divisions of the  
ROMAN GODS.*

## CAP. I.

*De Diis.*

Hough Satan had much blinded the hearts of men in old time, yet was not the darkness of their understanding so great, but that they did easily perceive, and therefore willingly acknowledge, that there was some supream Governor, some first Mover, as *Aristotle* saith, some first Original of all goodness, as *Plato* teacheth. So that if any made this question. Whether there was any God or no? he should be urged to confess the truth of that, rather *Argumento bacillino, quam Aristotelico*, rather with a good cudgel, than with any long dispute. But as they were most certain, that there was a God, so were they again very blind in discerning the true God: and hence hath been invented such a tedious Catalogue of gods, that (as *Varro* averreth) their number hath exceeded thirty thousand, and proved almost numberless. Wherefore I shall omit to make any distinct Treatise of the gods, intending obiter and by the way to speak of them, which either

either had Priests, or Sacrifices instituted for them. Only I purpose to shew what is understood by those general distinctions of the Gods which divers Authors have used, *Tul. lib. 2. de legibus*, reduceth all unto three heads, Gods celestial, which *Varro* calleth select, and others have styled Gods *majorum gentium*, i.e. of the greater nations, because their power was greater than the others.

<sup>a</sup> Alex. Gen.  
dier. 1.6. c.6.

<sup>a</sup> Alexander Neopolitanus saith, that twelve of these were the *Penates* which *Aeneas* did take forth with him at the destruction of *Troy*. *Ovid* calleth them *Deos Nobiles*, noble Gods: others call them, *Deos consentes, quasi consenties*, because *Jupiter* would do nothing without the consent of all. *Ennius* hath delivered them in this distich.

*Juno, Vesta, Minerva, Ceres, Diana, Venus, Mars,  
Mercurius, Jovis, Neptunus, Vulcanus, Apollo.*

<sup>b</sup> Serv. in lib.  
Georgic.

The second sort of Gods were called *Semidei*, i.e. Demigods; also *indigites*, i.e. Gods adopted, or canonized: men deified. For as the select Gods had possession of heaven by their own right: so these Gods canonized, had it no otherwise than by right of donation, being therefore translated into heaven, because they lived as Gods upon earth: but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore were they called gods of inferior note. <sup>c</sup> *Servius* would have these called *Divi*; observing this difference between *Dii* and *Divi*, that *Dii* should signify those which had been Gods perpetually, but *Divi* should signify men made gods, though commonly they are used one for another.

<sup>d</sup> Rosin. ant.  
I. 3. c. 13. vid.  
Hospin. de  
orig. Christ.  
F. p. 21. Vid.  
exemplum  
hujus conse-  
cracionis in  
Severi sepul-  
tur. Herodi. I.  
4. p. 298:

Whence they called all their Emperours *Divi*, because for their deserts they thought them worthy to be gods. Now the <sup>d</sup> manner how a man became deified was this: The party to be canonized being dead, a pile of wood was made in form of a great Tent, or Tabernacle, with three other lesser Tabernacles, one on the top of another, the lowermost having in it dry combustible matter, but on the outside adorned richly with Gold, Ivory, and painted Tables; bither the dead corps

corps was to be carried with great solemnities ; the Senate, the Gentlemen, and all the chief Magistrates going before, with Hymns and Songs, and all kind of honour which was to be performed even to the gods themselves. He being in this manner brought, and laid within the second Tabernacle, the fire was kindled by him who was to succeed in the Empire, for I find none canonized but only Emperors at their decease ; forthwith at the kindling of the fire, a living Eagle was let fly from the top of the Tabernacle, which was supposed to transport the soul of the dead body into heaven, insomuch that ever after he was canonized amongst the gods, and worshipped as a god. And because they were thus turned into gods, some have called them *Deos animales, quoniam anima humana verterentur in Deos.* This canonization was by the Greeks termed *εποιήσεις*, by the Latines *consecratio*. The third sort were those Moral Vertues, by which as by a ladder men climbed into heaven : and therefore did men style them Gods, because by their means men became deified. Late Writers perceiving that all the number of the gods could not be reduced into these three heads, have added a fourth sort, which they *f* call *Semones, quasi semi-homines*, because antient Writers, as *Rosinus* hath observed, called men *hemones*, not *homines*, in which point I shall willingly condescend unto him ; but I shall leave to the judgement of others, to determine how justly he hath restrained the gods *minorum gentium*, of the lesser Nations, only unto this last *classis* ; whereas my opinion is, that the demi-gods, the Moral Vertues which have been styled gods, and these *Semones*, may all of them be called gods of the lesser Nations, standing in opposition with the gods select, which are called gods of the greater Nations. But that we may understand what is meant by these *Semones*, we must remember, that by them are signified unto us not those gods which do appertain to man himself, but to the necessaries of mans living, his victuals, his cloathing, and

*e Serv. in  
Æn. l. 3.*

*{ Rosin. ant.  
l. 2. c. 19.*

and the like ; not to the being of a man, but to the well-being of him : of which sort is *Salus*, *Fortuna*, with others. We read likewise of other names given in common to divers gods, not as opposite members of a division, but as notes of distinction drawn from the diversity of help, which they severally did afford unto man. In this respect some were called *Dii patrii*, or *tutelares*, such as had undertaken the protection of any City or Town : which opinion had sometimes been entertained by our English men, and thence have risen these and the like speeches, *S. George* for *England*, *S. Denis* for *France*, *S. Patrick* for *Ireland*, &c. And the *Romans* being fully perswaded of the truth thereof, whensoever they went about to besiege any Town, by certain enchantments or spells they would first call out theſe Tutelar Gods ; because they deemed it a matter impossible to captivate the City, as long as these Gods were within ; or at least they thought it a crime unexpiable to take the Gods as prisoners : and leſt other Nations might use the ſame means in besieging *Rome*, therefore <sup>g</sup> as divers Authors have thought, the true name of the *Roman* City was neuer known, leſt thereby the name of their Tutelar God might be deſcried. Others, namely the *Tyrians*, have tied ſaff their god *Hercules* with a golden chain, thereby the more to ſecure themſelves of his residence among them.

<sup>g</sup> *Sylvius* in  
ep. virorum  
illustrium.

<sup>b</sup> *Alex. Gen.*  
*dier. l. 6. c. 4.*

<sup>b</sup> Others have been called *Dii communes*, namely *Mars*, *Bellona*, and *Victoria*, because in time of war they are not bound to either ſide, but ſometimes they help one ſide, and ſometimes the other. And as they ſuppoſed ſome gods to have the protection of whole Countries ; ſo did they believe that others had the charge of particular men ; and that aſſoon as any man was born, two ſpirits did preſently accompany him inviſibly, the one termed the *bonus Genius*, or good Angel, perſwading him to that which ſhould be good ; the other called the *malus Genius*, or evil Angel, tempting him to that which ſhould be hurtfull ; inſomuch that they thought all the actions

actions of men to be guided by these Angels called *Genii*; so that if any misfortune befell a man, they would say that the matter was enterprised *Diu iratus*, i. e. our *Genius* being displeased with us. *Virgil* calleth these bad *Angels Manes*, as it appeareth by that, *Quisq; suos patitur manes*, i. e. Every man hath his evil Angel, i. e. some misfortune. These *Genii* were thought to be a middle essence between men and Gods. They are therefore called *Genii*, because they have the tuition of us so soon as we are *geniti*, i. e. born. It is most certain, that old Authors used *geno* for *gigno*; whence *Tully* saith, *Si mihi filius genitur*; and *Varro*, *Amequam genat filius*, although every place had also his *Genius*, as hereafter shall appear. This opinion was the more confirmed by a vision which appeared unto *Brutus* in *Asia* near unto the time of his death; for *Brutus* watching upon a certain night in his pavilion, the candle being near spent, saw a fierce tragical person appear unto him, somewhat bigger than a man, and he presently being of an undaunted spirit, demanded whether he were a God or a Man? To whom the vision answered, *Brutus*, I am thy evil *Genius* which haunteth thee, thou shalt see me at the City *Philippi* again: and the same vision appeared unto him as he was fighting at *Philippi*, which was the last fight that ever he fought. And because *Juno* was wont to be invocated in the time of Child-birth, therefore many have thought that every man hath not his two *Angels*, but one Angel, and *Juno* to observe him: but it is agreed on by best Authors, that as the *Angels* or spirits which did attend men were termed *Genii*: so those which guarded women were termed *Junones*. This *Genius* as often as he is understood for the good or evil Angel, which hath charge of a mans body, is painted in form of a man, as we read did appear to *Brutus*: though sometime he is painted as a young boy, sometime as an old decrepit man, but always with a crown of Plane-tree, which therefore was called *Genialis arbor*: in the right hand he held a platter over an Altar

*i Cic.* l. 2. de  
orat.

*4 Varro Rei  
Rust.* l. 1. c. 31.

*Plut. in Brut.*

*in Rosin. ana.  
l. 3. c. 14.*

garnished with flowers, in the left he held a scourge hanging down. The sacrifice that was performed unto the *Genius*, was wine and flowers; whereupon (as if by wine and fragrant odours were signified all kind of pleasures) certain proverbial speeches have been occasioned; as when we see a man given much to his pleasure, and dainty feeding, we say he doth *indulgere genio*, i.e. pamper or make much of his *Genius*; on the contrary, he that is abstemious, and debarreth himself of his pleasure and dainty feeding, is said *defraudare genium*, to defraud his *Genius*; and *genialis* signifieth jocund or pleasant. \* It was also the custom after meals to have a cup pass round the table, much like unto our *poculum charitatis*, and it was called *poculum boni genii*: o The *Grecians* had a like custom; whence that cup was called by them *τετράγωνος κύπελλος*. But the reason why they would not sacrifice to their *Genius* by killing some hoast, as they did to their other gods, was, because they judged it unfit to deprive any creature of his life upon that day, when they first began their life (for this sacrifice was performed yearly by every one upon his birth day.) *Horace* notwithstanding doth more then intimate the killing of a young Pig in that sacrifice,

— *cras Genium mero*

*Placabis, & porco bimeti. Hor. lib. 3. Od. 17.*  
The other *Genius* which is supposed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form *Virgil* feigned him to have appeared to *Aeneas*, when he performed the funeral rites due unto his father *Archises*, *Aenid. 1. 5.*

Sat. I.

— *Adytis cum Iubricus anguis ab iisis.*

*Septem ingens gyros, septena volumina traxit.*  
And *Perfus*,

*Pinge duos angues, pueri, sacer est locus, extra  
Meite, id est, duos Genios.*

Another sort of Gods was supposed to have the keeping of

of mens houses, <sup>of</sup> which they painted in the form of a <sup>p</sup> Fra. Sylv. in  
Dog, because those to whom the charge of houses is  
committed, ought to resemble dogs, that is, to seem fierce  
and angry towards strangers, but gentle and kind to  
those of the household: other properties wherein these  
*Lares* do resemble Dogs, are recited by Ovid. *Faes.*

*Servat uterq; domum, domino quoq; fidus uterq; est,*

*Compita grata Deo, compita grata canis:*

*Exagitant & lar, & turba Diana fures.*

*Pervigilantq; Lares, pervigilantq; canes.*

They were named *Lares*: and because of the charge they  
had over mens houses, this word *Lar* is sundry times ta-  
ken for an house it self, as *parvo sub Lar*, *Horat.* in a lit-  
tle cottage, *homo incertus laris*, i. e. a man that hath no  
house to dwell in. *Sen. in Med.* And the custom in sacri-  
ficing unto them, was to eat up all whatsoever was left  
at the offering, for they thought it an hainous matter to  
send any of that sacrifice abroad, either among their  
friends, or the poor: and thereupon when we see a glut-  
ton leave nothing in the platter, not so much as the cour-  
tesie morsel, we say, *Lari sacrificat*, i. e. he sacrificeth to  
his household-God.



## LIB. II. S E C T. II.

Of the Roman Priests, with some particular  
G O D S.

**F**annus the antientest of all the Kings in Italy, was the first that brought any form of Religion into Italy. He consecrated Groves, gave names unto Cities, erected Temples, ordained Sacrifices, &c. from whom the Churches, as some say, were named *Fannia*. But after *Fannus*, *Evander* coming out of Arcadia, and afterward being King of *Lavinium*, he instituted and appointed many other ceremonies, which before were unknown to the Latines. After him *Aeneas* coming from *Troy*, taught many of the Trojan ceremonies: by whose examples *Romulus* and *Numa* were incited to add many other kinds of holy Rites, and at length reduced their whole religion into a certain order, especially *Numa*, who that he might gain the more credit and authority to his new invented superstitions, feigned that he had conference about them every night with the goddess *Egeria*. My intent therefore is, to speak first of the god in whose honour these holy Rites were performed, and then to descend unto the Priests which were to perform them, shewing withall the ceremonies they used in the performance.

La&t. de fal.  
tel. I. 1. c. 22.

C A P.

## C A P. I.

*De Pane Lyca, sive Juno : de Lupercis, & Lupercalibus.*

**P**an was supposed to be the God of the Shepherds, and is thus described: he is pictured naked, having Horns in likeness of the Sun Beams, a long Beard, his face red like the clear air, in his breast the Star *Nebula*, the nether part of his body rough, his feet like a Goat: in one hand he holdeth a Pipe, in the other a shepherds Crook, and alwaies is imagined to laugh. *b* He was worshipped first in *Arcadia*, and there called the God *Pan Lycaens*, but afterwards he was had in great esteem at *Rome*, *c* and in the honour of him certain Sacrifices and Games called *Lupercalia* were solemnized by the *Romans*. *d* There he took the name *Janus*, or as some say *Janus*. Concerning the time when these Sacrifices were to be performed, it was upon the unfortunate days of the moneth *February*, which hath his name *a februario*, from purging: whence the feast or game is as a purification; though the Latine word signifieth as much as a feast of Wolves, in a memorial that *Romulus* and *Remus* were nursed by a She-wolf. This seemeth very probable, because the Priests, which were called *Luperci*, began their course at the foot of the Mount *Palatine*, called by the *Romans* *Lupercal*, *id est*, the place where the Wolf nursed *f Romulus*. The *ceremonies* were these: The host (being two Goats) was to be slain, and two noble mens Sons were to be present, whose foreheads being blooded with the knives of them that had slain the Goats, by and by were to be dried up with wool dipped in milk. Then the young boys must laugh immediately after their foreheads were dry; That done, they cut the Goats skins, and made thongs of them, which they took in their hands, and ran with them all about the City stark naked (saving they

*a* Servius in  
Virg. Ecl. 2.

*b* Fenest. de  
sacer. cap. 1.

*c* Fenest. lib.

*d* Pomponius  
Lexus de Sa-  
cerd. cap. de  
Laper.

*e* Plutarch, in  
Romulo.

*f* Plutarch. in  
Romulo.

they had a cloth before their privities) and so they struck with those thongs all they met in the way. The young wives did never shun them at all, but were well contented to be stricken with them: believing it helped them to be with child, and also to be easily delivered. Moreover it is to be noted, that a Dog was sacrificed at this time: because there is a natural antipathy or contrariety of Nature between the Dog and the Wolf: whereby *Romulus* thought to testifie his gratefulnes unto the Wolf for her pains in nourishing him. The reason why the Priests ran up and down the streets naked, was because that *Pan* the god of this Sacrifice was painted naked. As the feast, so also the place from whence they came, and likewise the Priests had their names à *Lupa*, which signifieth a Wolf. Some Authors have observed three sorts of the *Luperci*, some called *Fabiani*, some *Quintiliani*, from *Fabius* and *Quintilius* their Governors: the third sort, which <sup>g</sup> *Rosinus* affirmeth to have been added in the honour of *Julius Cesar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* saith in <sup>b</sup> another place, namely, that *Augustus Cesar* when he was chief Pontifie did restore these games again, being formerly abolished.

## C A P. 2.

## De Cere, &amp; Sacris ejus.

**C**eres, otherwise called *Eleusina*, was honoured first among the *Grecians*, afterward among the *Romans*, as a Goddess, which first taught men the skill of husbandry:

*Prima Ceres ferro mortales vertere terram  
Instituit. Virg. Georg.*

Whence she is sometimes *Metonymicū*, taken for Corn, as *credenda Ceres arvis*, *Ovid*. It is seed-time. She is called *Ceres*, i *quasi Geres*, a *gerendis frugibus*, from bearing fruit: because as some say, by *Ceres* is understood sometimes

Sometimes the earth it self; whence also *Δημητρίς*, being the Greek name of *Ceres* is said *quaesitum ērē*, i. e. the earth, which is the common mother of us all. <sup>l.</sup> She is <sup>4</sup> Rosin. ans. painted in the habit of a Matron wearing a garland of Corn: sometime sorrowful, with a lamp in her hand, as if she were seeking out her daughter *Proserpina* carried by *Pluto* into hell: and sometime with a handful of Corn or Poppy-seed. Upon the fifth of the Kalends of *April* the Romans were wont to perform sacrifices unto her, which they called *sacra Graca*, i. e. the Grecian sacrifices: as likewise they termed the chief woman which did perform them, *sacerdotem Gracam*, i. e. the Greek Mistress, because they were translated into *Rome* out of *Greece* by *Evander*. The time of their solemnities was at the dawning of the day, and the Priests, which were only women which ran up and down with lamps in their hands in manner of mad women; into whose Temple none that was guilty of any fault committed, might enter: whose mysteries were to be buried in silence, and by no means to be blabbed abroad. And as it is to be supposed, that was the reason why all wine was forbid in this sacrifice. So that hence <sup>l</sup> we say *Cereri sacrificat*, he sacrifices to *Ceres*, when he makes a feast without wine.

<sup>1</sup> *Plantus in Aulularia.*

## C A P. 3.

## De Portis, &amp; Pinariis, Herculis sacerdotibus.

**H**ercules had an Altar erected in the memorial of him near unto *Tiber* by *Evander*, upon occasion of the Herdsmens complaint brought unto *Evander* of him, whom they accused to have slain their chief Herdsman *Cacus*, the History being <sup>m</sup> thus; *Hercules* after his Conquest over *Geryon*, brought away with him certain goodly Oxen, and as well to rest himself, as to pasture his Oxen, he laid him down to sleep in a green field near the River *Tiber*. In the mean while a certain herdsman called *Cacus* happened to come that way, and perceiving

<sup>m</sup> *Ser. Aen. 1.8:*

*Hercules* to be in a sound sleep, he stole away two of his Oxen, which he hid in a Cave or hollow Rock, pulling them in by the tail backward, thinking that *Hercules* when he should look his oxen, and see the print of their footsteps, would easily believe that his Oxen had rather gone out from the Rock than into it, as indeed he did for a time believe: but afterwards by the bellowing of the Oxen within, answering their fellows without, *Hercules* entred the Rock, and finding the chief *Cætus* there with his Oxen, he killed him, by reason of which murther he was brought before *Evander*; and after a while known to be the *Hercules*, of whom the Prophetess *Garmenta* had foretold unto *Evander*, that he should be a God: whereupon *Evander* presently saluted him by the name of *Hercules* the Son of *Jupiter*, and in honour of him caused an Altar to be built there in that place: upon which yearly was to be offered up an Heifer which had never born yoke; and that this Sacrifice might be had in the more esteem, two Noblemen well stricken in years, and of good repute among the Romans, one of them being called *Potitus*, and the other *Pinarius*, were appointed as the Priests to perform these Sacrifices; from whom ever after *Hercules* his Priests were called *Potitii*, and *Pinarii*. Where by the way we must observe, that *Pinarius* was not the surname of this Nobleman, but a name added unto him, intimating his and his successors punishment, for not coming soon enough according to n Ser. AEn. l. 8. the time appointed by *Hercules*. For as n divers writers testifie, the entralls of the hoast were almost eaten up by the family of *Potitus*, before *Pinarius* and his family came, and in punishment of thier negligence *Hercules* enjoyned the *Pinarii* never after to eat of the entralls, giving them this name *Pinarii* at that time, from the Greek word *πίνειν*, signifieth hunger.

CAP. 4.

*De Fratribus Arvalibus.*

This Colledge or Company of Roman Priests may be Englished the *Arval-fraternity*: the number of them being twelve, eleven of them natural brothers, sons to *Acca Laurentia*, *Romulus* his Foster-mother; for which respect *Romulus* yielded himself her adopted son, instituting this Order in the honour of *Ceres* and *Bacchus*, for the plenty of Wine and Corn, unto whom they did offer up certain sacrifices called *Ambarvales hostia*, *quod antequam mactarentur ter circum arva ducibantur*; according to that of *Virg. Georg. Terq. novas circum felix et hostia fruges*, that they being therewith appeased, might the willinger cause the earth to fructifie, and added himself to the former eleven, as the twelfth Priest, or brother to help in the performance of this publick sacrifice. Moreover, beside the performance of this sacrifice, these twelve were appointed *Arbitrators*, or Judges to decide controversies concerning Land-marks, and bounds of the field, from whence they took their name *fratres arvales*. Their sacerdotal ornament was a garland of Wheat bound up with a white ribband, this being, as *p. Pliny* writeth, the *fist Crown or Garland* *p. Plin. l. 17. c. 2.* amonst the Romans.

*o Fenest. de  
Sacerd. c. 3.*

*Hospin. de  
orig. Monach.  
c. 10.*

CAP. 5.

*De Sexaginta Curionibus.*

After that *Romulus* had divided the whole body of the Romans into three Tribes, or Wards, and subdivided those three Wards into thirty Parishes, called *Curia*, he ordained out of each *Curia* two Parish-Priests or Curates called *Curiones*, or *Flamines Curiales*; which were publickly to offer up sacrifice in the behalf of the people. Neither was every one equally capable of this

¶ Dion. Hal.  
lib. 2.

honour of Priesthood, *q* but he was to be at the least fifty years old, of a life unsported, and a body unmaimed. And over all these there was one which had chief rule, and therefore was called *Curio maximus*, the Bishop or chief Prelate: and these sacrifices were called *Curiosia*. *r* Their sacrifice being ended, each Parish had a feast in a common Hall built for that purpose: it was called *Domus Curialis*, and sometimes *Curia*.

¶ Dion. Hal.  
lib. 2.

C A P. 6.  
*De Auguribus, & eorum Collegio.*

**A**MONGST other kinds of fore-tellers, we read of three principally used in former time, namely, *Arauspices*, *Auspices*, and *Augures*: all which we English *Soothsayers*, though the Latine words do import a main difference, worth our observation; all are alluded unto by *Ovid*.

Ovid. trist. 1. 1.  
Eleg. 2.

*Hoc mihi non ovium fibra tonitrusve finistris,  
Linguave servata pennave dixit avis.*

The *Arauspices* did divine or foretell things to come, by beholding the entrails of beasts sacrificed; whence they had their name, *ab aras inspiciendo*, from beholding the Altars. The *Auspices* did foretell things by beholding the flight of birds: so that *Auspices* are said *quaesitissimis, ab aves spiciendis*. The *Augures* did divine from hearing the chatting or the crowing of birds; whence they are called *Augures ab avium garris*, from the chirping and chatting of birds. These two last kinds of soothsaying have occasioned these and the like phrases, *bonis avibus*, or *auspiciis* with good luck, *malis avibus*, i. e. with ill luck; and because they would begin nothing in *auspicio*, i. e. without the counsel of the *Augures*, hence *Auspiciari rem* hath been translated, to begin a matter. The Colledge of the *Augures* at *Rome*, was first appointed by *Remulus* himself, being very expert in soothsaying, there being at the first but three, namely one of each Tribe; (The word *Augur* being not taken in his own

*t* Fr. Sylv. in  
orat. pro Ci-  
ventio.

*#* Pomp. Lx-  
tus cap. de  
Augur.

own proper sense and signification above mentioned: but generally, by the trope *Synecdoche*, signifying all kinds and sorts of divining whatsoever, whether it were by observing the entrails of beasts, the flying, screeching, and chatting of birds, or thundring or lightning in the Heaven, or marking the rebounding of crums cast unto birds, which kind of divining was called *Tripondium*.) *x* *Servius Tullius*, the sixth Roman King, when he divided *Rome* into four local Tribes, *id est*, Regions, or quarters, then did he add the fourth *Augur*, all of them being elected out of the *Patricii*, or the Nobility of *Rome*. *y* In process of time *Quintus*, and *Census Egnatius* being chosen *Tribuni plebis*, *i. e.* protectors of the Commons, obtained, that five other *Augures* should be chosen out of the commonalty, and added unto the former four: at which time the Senate decreed, that the Colledge of *Augures* should never exceed the number of nine. *z* Notwithstanding *Silla* being *Dictator*, added 6. more, insomuch that their Colledge increased to the number of 15. the eldest of which was called a *Magister Collegii*, the Master, or *Rektor* of the Colledge. The *Augures* excelled other Priests, in *b* this respect, because if any of them had been convinced of any hainous crime, he did not lose his office, neither was any other subrogated into his room, although the Roman custome was, that if any other Priest had committed any notorious offence, he should presently be discharged of his office, and another chosen in his place. *c* The manner how the *Augur* did observe was this: He sate upon a Castle, or a Tower, the air being clear and fair without clouds or rain, holding a crooked staff ( called in Latine *Litus*) in his hand, where sitting in his soothsaying robe called *Lana*, and in Greek  $\chi\lambda\alpha\tau\alpha$  ορθον  $\chi\lambda\alpha\tau\alpha\tau\epsilon\tau$  *calefaciendo*, from heating, because it was well lined within, being guarded on the outside with purple and crimson guards.) having his head covered, and his face turned toward the east, so that his back was west-ward, his right side south-ward, and his left north-ward. Being thus

*x* Rosin. ant.  
1. 3. c. 8.

*y* Rosin. *ibid.*

*z* Rosin. *ibid.*

*a* Alex. Gen.  
dier. 1. 5. c. 19.

*b* Alex. *ibid.*

*c* Pomp. Lx.  
tus de Aug.

placed, he quartered out with his crooked staff the heaven into certain *tempa*, id est, Regions, or places, observing in what region the birds did appear: then killing his sacrifice, and offering up certain prayers, called *Effara*, he proceeded in manner as followeth. But first suppose we for our better understanding hereof, that now the *Augures* were to resolve the people, whether the gods would assent that *Numa Pompilius* should be King. The *Augur* having done as above is shewed, his *Lirrus* being in his left hand, he reached forth his right hand, putting it upon *Numa Pompilius* his head, using this form of words, *Jupiter pater, si fas sit Numa Pompilium, cujus ego caput teneo, regem Roma esse, fac mi nobis signa certa ac clara sint inter eos finis quos feci*, i.e. If it be lawful for this *Numa Pompilius*, whose head I hold to be King of *Rome*, shew some manifest tokens within these regions or quarters which I have described. Then if he observed lucky signs and tokens he presently pronounced *Numa Pompilius* King of *Rome*; if he perceived unlucky tokens, then did he *obnunciare*, or gainsay, and shew that the matter proposed was not pleasing to the gods. Where by the way we must note, that nothing was confirmed by the *Augures* without the appearance of two lucky tokens one after another; neither was any thing gainlaid by the appearance of the only evil token. The distinctions of the soothsayings have been taken, some from the event, and thence are they called *prospera*, lucky, or *adversa*, unlucky; some from the manner of appearing, and that was either wished, being called therefore *impetrativa*, or unwished, called *oblativa*; some from the diversity of things which offered themselves in time of divining, and of these were five distinct sorts: the first was by the observing of lightening and thunder from Heaven, the second from the flying & chatting of birds, the third from bread cast to pullets or little chickens; the fourth from four footed beasts, which either should cross the way, or appear in some unaccustomed place; the fifth from those casualties whereby the gods

*ad Seru. Aen.*  
lib. 6.

gods do make their anger appear unto us. Of this sort are those voices which we hear we know not whence (as e *Caðmas* heard, when he overcame the serpent;) the falling of salt towards us at the table, the shedding of wine upon our clothes, from which casualties and the like, the *Augures* would pronounce either good fortune or bad to ensue. And these tokens were therefore called *Dira*, because thereby *Dei ira nobis innotescit*, the gods' anger is made known unto us. Now the things that in divining time appeared on the left hand, were commonly tokens of good luck, because the givers right hand in bestowing a benefit is opposite to the receivers left hand. Whence *f* *Serv. Aenei*, lib. 2. *finistrum*, though in busane affairs it signifies as much as unlucky, yet in those holy rites of divining, *finistrum* is taken in a contrary lense, as *Avis sinistra*, good luck, *Intonit levum*, it hath thundred luckily, we shall have good succels; and it is said, *a sinendo*, because the gods thereby do suffer us to proceed in our purposed projects. And therefore *Tully* saith, lib. 1. *de devinatione*, *a sinistra conicratum & firmum Augurium fieri*: and in the law of the 12. tables it is said *Ave sinistra populi magister* *lib. 8. g* *Lips. Elect.* The *Grecians* from hence in the judgement of *Lipsius* have called the left hand *destinum* from *desse* signifying best.

C A P. 7.  
De Tripudiis & Pullariis.

**T**HIS kind of conjecturing is called *auspicium coactum* *b* *Cic. de divinat. lib. 1.* *biquoniam* *necesserat offa objecta cadere frustum expul-*  
*siore, cum pascitur.* The word *Tripudium* is used by a *syn-*  
*copation* for *terripudium*, which is as much as *terripavium*, *id est*, a dancing or rebounding of any thing upon the ground: for *pavire* is the same with *ferire*. \* Others say *Tripudium quasi tritio pedum*. It is here taken for the divining, or conjecturing of good or evil to come by the rebounding of crumbs cast to chickens in a coop or pen: whence the *Augur* from these pullets or chickens was called

\* *Humbert*  
*in lib. 6. Ep.*  
*fam. Cia.*

Alex. Gen. led *Pullarius*, id est, a Bird-Prophet. The manner in observing was this: as often as by this kind of conjecturing they desire to know the Gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilful in this kind of observation, repaired unto the place where the chicken were kept, where silence being commanded, and the coop opened, they cast crums of bread to the chicken: now if the chicken either came slowly, or not at all unto the bread, or if they walked up and down by it not touching it, then was it a token that the matter to be enterprized was displeasing unto the gods; but if contrarily the chicken did hastily leap out of the coop, and eat so greedily of the crums, that some should fall out of their mouths again, then the *Pullarius*, that is, the *Augur* pronounced that it was well pleasing to the gods, and encouraged the enterprizing of what they had intended cheerfully: and this was called *Tri-  
pudium solstitium*. This kind of conjecturing may seem to have its original from the *Lycians*, & who as often as they desired to foreknow the success of any enterprize, they went unto the fountain dedicated unto *Apollo*, into which they cast baits for the fish: now if the fishes did eat them, it did betide good luck: if otherwise they neglected the baits, then did it betoken some evil event.

Alex. ibid.

## C A P. 8.

De *Aruspicibus*, *Aruspicina*, & *Extispicino*.

1 Senec. Oed.  
Act. 2. scen. 2. **T**his kind of Sooth-sayers, as they were called *Aruspices*, ab *aras aspicio*ndo, from beholding the beast upon the Altar; so were they called *Extispices*, ab *exta aspicio*ndo, from beholding the bowels or entrails of the beast, called in Latine *Exta*. In this kind of sooth-saying the *Aruspex* observed in manner as followeth; I first whether the beast to be sacrificed came unto the Altar willingly, without plucking and baling; whether he dyed without much strugling, or lowd bellowing, at one blow

or

or many, whether any unlucky object were seen, or heard by them whiles they were sacrificing. Again, after the beast was slain, then would they observe, whether the bowels were of an unnatural colour, whether they were not ulcerous, exsiccate or impostumated: moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what would befall themselves and their friends; the other they would call *partem hostilem*, whence they gathered predictions touching their enemies. Hence *Manto* in *m Seneca* describing the entrails of his killed sacrifice, saith *Hostile valido robore insurgit latus*, meaning by *hostile latus, partem hostilem*. Afterward when the sacrifice was to be burned, they considered whether the flame of the fire was smoakie, whether the smoak rolled and tumbled in the ayre, whether it were of any countenance or no: for all these were unfortunate tokens, as the contrary did betoken a good and fortunate issue to their de-signments. These last, which observed the fire and smoak were called by a more peculiar name *Capnomates*, smoak-augures, from the Greek words *καπνός* signifying smoak, and *μάντεις*, *id est*, *vates*, or a Soothsayer. The first instructions that the *Romans* received were from the *Hetrusci*, (who as they themselves say) received their knowledge from a little boy, which they named *Tages*, the history being thus; *n* when the *Hetrusci* were plowing the lands, upon a sudden upstarted this *Tages* out of one of the furrows, using divers speeches unto the plow-men: but they being much affrighted at this sudden and strange vision, began with a loud cry to lift up their voices; upon occasion whereof many other people flocked thither, where he gave many good instructions concerning this kind of soothsaying, which were presently recorded in books, and practised afterward by the *Hetrusci*.

*m* Oed. Act.  
2. scen. 2.

*n* Cic. de divi-  
nar. Indigenæ  
dixere Tagem,  
qui prius  
Hetruscam  
Edocuit gen-  
tem casus ape-  
rire futuros.  
Ovid. Met. lib.  
ult.

CAP. 9.  
*De Flaminibus.*

• Rosin. ant.  
I. 3. c. 15.  
p Rex Anius  
Rex idem, ho-  
minum Phaeo-  
que sacerdos,  
Vng.

The mitre or head-ornament which these Priests did wear, was called in old time *Flama*, whence the Priests took their name *Flamines*. The custome amongst the *Grecians*, as likewise afterwards among the *Romans* was, that the Kings shoud as well perform ceremonies and holy rites of religion, as civil businesses. But *Numa Pompilius* perceiving that forrain wars did oftentimes occasion the Kings absence, insomuch that those religious ceremonies which he himself personally shoud perform, were of necessity sometimes neglected, hereupon he ordained out of the *Patricii* three Priests to perform that divine service unto *Jupiter*, *Mars*, and *Romulus* which he himself otherwise ought to have performed, calling the first *Flamen Dialis*, the other *Flamen Martialis*, and the last *Flamen Quirinalis*, from *Romulus* which was often called *Quirinus*,

*Sive quod hasta quiris priscis est dicta Sabinis,  
Belicus at telo venit in astra Deus.*

*Sive suo regi nomen posuere Quirites,  
Senquia Romani junxerat ille Cures.*

In proces of time twelve others chosen from the Commons were added unto these, but with this note of distinction, that the three first were had in great esteem, and were called *Flamines maiores*, high Priests; the other of less note, called *Flamines minores*, inferiour Priests; the chief of all was the *Flamen Dialis*, *Jupiters* high Priest. And whereas every one did wear a certain bonnet in form of a mitre, which sometimes was called *Pileum*, sometime (by the figure *synecdoche*) *Apex* (whereas *Apex* doth properly signify only the top of the bonnet) q none might wear *Albo-galerum*, i. e. a white mitre, but only *Jupiters* Priest, and that was to be made of white sheep skin, after the sheep had been sacrificed. What soever malefactor could

• Alex. Gen.  
dier. 1. 6. c.

could escape unto this Priest, he should not be punished that day. None was eligible into this office, but he that was married: neither was it lawfull for him to marry twice, but if his wife died. *Flaminio abibat*, i.e. he resigned his sacerdotal office. To him was permitted a rich robe of state, and a curule chair; none might fetch fire out of his house, unless it were to perform some sacrifice therewith; <sup>r</sup> none might barb or pole him but a free-man, and that with brasen scissers. Many other ceremonies there were which concerned this *Flamen*, as likewise Time added many other *Flamines*, namely <sup>s</sup> every god one, yea sometimes those threescore Parish-Priests which formerly were called *Curiones*, were called *Flamines Curiales*, and divers Emperors after their death had also their *Flamines*. <sup>t</sup> Moreover we must note that those Priests wives were called *Flaminicae*; Their ministers (for they were wont when they went to sacrifice, to take a boy or a maid with them) *Flaminii*, or *Flaminiae*: and the chief *Flamens* dwelling house was call'd *edes Flaminea* or *Flaminia*. But as it seemeth probable, *Numa Pompilius*, and so the other Kings succeeding him, did still reserve their right and authority in holy matters so far, that they would instruct other inferiour Priests, yea and specially perform some special sacrifices themselves: whereupon after that the Kings authority was abrogated amongst them, then that these sacrifices might be continued, they chose a certain Priest, which they preferred before the *Flamen Dialis*, but judged him inferior to the *Pontifex maximus*, or Arch-Pontifie, & him they called *Rex sacrificarius*, and *Rex sacrorum*, the King-Priest. To him once every year the vestal Nuns repaired, & used this form of words, *u Vigilaſne Rex? Vigila*. King art thou awake? awake. For unto him it did belong to bid holy dayes, and to provide all things necessary for publike sacrifices. He was to instruct those that sought unto him, the causes of the holy days, and tell them what was lawful and unlawful every moneth, and upon the fifth of the *Ides* of January he sacrificed a *Ram* to *Janus*.

<sup>s</sup> *Fenest. de  
sacerd. c. 5.*

<sup>t</sup> *Alex. Gen.  
dier. l. 6. c. 12.*

<sup>u</sup> *Serv. En. 10.*

He was likewise wont to offer up a sacrifice in the *comitium*, or great hall of justice, which being finished, he ran as fast as he could out of the market-place without delay: His wife was called *Regina sacrorum*, the Queen-Priestess, and was wont upon the Kalends of every moneth to sacrifice a Porker, or a Lamb in her place in the honour of *Juno*.

## C A P. 10.

*De Marte, sive Mavorte, & Salis Palatinis Marti dicatis.*

**M**ars, otherwise called *Mavors* by the figure *Epenthesi*, as we say *Induperator* for *Imperator*, was reputed the god of war, and so *Metonymicus* is used for war, as *vario Marte pugnatum est*, the battle was doubtful; *proprio Marte*, by ones own strength, and labour. He was the son of *Juno* only, without company of her Husband: for when *Juno* was greatly displeased with her self, that *Jupiter* by striking his head, without the company of a woman did bring forth the Goddess *Minerva*, she by the counsel of the goddess *Flora* touched a certain flower in the field of *Olenias*, by vertue whereof she immediately conceived the God *Mars*. This God, by reason of his dominion in war, the Romans painted fiery, sometimes in his chariot, sometimes on horseback, with a Javelin in one hand, and a Scourge in the other. In old Coyns there was sometimes the picture of a Cock joyned with him, to shew the vigilancy and carefulness

*x* Rosin. ant. 1. 2. c. 10. that soldiers are to use. He was called *x gradivus à gradiendo*, from marching in battle against his enemies. He had a Temple without the City, whence he was called

*y* Rosin. ibid. *extramythus*. *y* Near unto this Temple, without the gate *Capena*, did lie a stone of great note, which upon great droughts the people would bring into the city, and presently rain would follow; whereupon it was called the Rainstone, *Lapis manalis, a manando*. *Numa Pompilius* in the honour of *Mars*, surnamed *Gradivus*, ordained twelve dancing

dancing Priests, called *Salii* & *saliendo* from dancing, which number afterward we find to have been doubled <sup>a</sup> Plutarch. in Numa.

by *Tullus Hostilius*, in the war against *Fidena*, a town of the Sabines. The former 12. being called *Salii Palatini*, from the Palatine Mount, where they did begin their man-

risk: the other *Collini*, from the Hill where their Chappell stood; <sup>a</sup> and sometimes *Quirinales*: and sometimes *Ago-*

<sup>a</sup> Dion. Hal. lib. 2.

*nates*: so that the whole Colledge contained 24. Priests.

<sup>b</sup> The occasion of their first institution was this; Upon a certain time, in the reign of *Numa*, the plague, or some other contagious sickness was very hot among the *Romans*, insomuch, that no sacrifice, or holy offering could remove it: at that time a certain brasen Target or Scutcheon, called in Latine *ancilla pelta*, or *ancile*, big at both ends, but cut like an half Moon on each side, fell from heaven into *Numa* his hands, with a certain voice promising all health unto *Rome*, so long as that brasen Target could be kept safe. Whereupon *Mamurinus*, a cunning workman

<sup>b</sup> Plutarch. in Numa.

by the appointment of *Numa*, made eleven other *ancilia*, so like the first, that neither could be known from the other (to the intent that if any should be so wicked minded as to steal it, he might fail of his purpose by mistaking one for another.) These 12. Priests had the custody and

keeping of them committed to their charge, and in the moneth of *March* every year they apparelled themselves with a party-coloured coat, called *tunica vericolor*, girt close to their body with a belt, or sword-girdle, & a breast-plate of harness, called *anum tegmen*, upon that, a robe of estate, called *tribea*, clasped about them upmost of all.

Upon their heads they did wear *apices*, i. e. Caps <sup>c</sup> much like unto the *Persian* Bonnets, called in Greek *ugbaria*,

<sup>c</sup> Dion. Hal. lib. 2.

or *nacei*. They did somewhat resemble our Head-pieces in war, made close unto the head, with a crest of cloth upon the top, whence some have called them *Galeas*. They being thus apparell'd, danced about the *Forum*, or Market-place, and the *Capitol*, with short swords by their sides, a Javelin in the right hand, and their *ancile* in the

other;

other; using certain Songs, either of the gods, and those they called *Jannalii*, *Junonii*, & *Minervii*; or of men, and those they called *Axamenta*, because in those Songs they did *axare*, i.e. nominate and call upon the names of some well-deserving men; as *Mamurius* which made those eleven Scutcheons, was often called upon in those Songs. Upon their festival dayes they had excels of cheer, whence *d Horace* hath used *salares dapes*, to signify dainty fare.

*d Horat. l. 1.  
Ode 37.*

*e Pomp. Lex.  
tus de facer.  
f Dion. Hal.  
lib. 2.*

*g Serv. Aen. l. 2.*

*b Vid. Era.  
Adag.*

## C A P. 11.

*De Fœcialibus, & Patre-patrato.*

**T**hese *Fœciales* were Officers at Arms, or Heralds, to denounce war, or proclaim peace, appointed thereto at first *e* by *Numa Pompilius*. *f* The chief part of their Office was to dissuade the Romans from molesting any confederate Nation, with unjust war: and if any confederate Nation did offer injury unto the Roman people, then did these *Fœciales* go as Embassadors unto them, perswading and exhorting them to yield the Romans their right: but if they continued thirty dayes obstinate, refusing to yield to that which should be just and right, then did they presently denounce war against them; casting forth a dart in token thereof; which denunciation was *g* called *clarigatio*, *à clara voce qua interbansur Fœciales*. Others are of opinion, that whensoever war was denounced, this Herald at Arms should *h* turn loose a Ram unto their enemies borders; signifying thereby, that their fields should shortly become pasture for the Romans: from which custom we say of one that challengeth another into the field; *Arietem emisit*. Again, if the *Imperator*, or Lord-general, had done ought against his Oath, these *Fœciales* by their sacrifice did avert the wrath of the Gods from him. The chiefest of them was called *Pater-patratus*, a perfect father; for he only could be *Pater-patratus*, which had both children of his own, and his father also alive. They were called *Fœciales*,

*Fœciales*, a *fœdere faciendo*, from making a league or peace between Nations. This league which we in Latine do call *Fœdus*, the Romans in old time did call *Fides*, as *Pighius Se: Ennius* and *Pighius* witnes; whence these *Fœciales* were termed also *Fidei Flamines*. *Pighius Se: Ennius* l. 1.

## C A P. 12.

*De Duum-viris, & Decem-viris, & Quindecem-viris,  
Sacrificiis faciendis, item de Sibyllis.*

**T**HIS Priesthood had its first institution from *Tarquinius Superbus*, whose office was as well to expound, as to keep the Oracles of those ten Prophetesses so famous throughout the world, called *Sibylle*. Concerning whom *Munster* hath these words: In times past there came a strange woman to *Tarquinius* the King, offering nine books full of the *Sibylline* Oracles to be sold: but *Tarquinius* thinking the books too dear, refused to buy them; the woman departing, burned three of these books, and came the second time unto *Tarquinius*, demanding as much for those six books, as formerly she had done for the nine; *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning again unto *Tarquinius*, and asking as much for the three left, as she asked at first for all nine. Then began *Tarquinius* more seriously to bethink himself thereof, and sent for his *Augures*, asking counsel and advice of them. And they understood, by certain signs observed, that the King had refused some special goodness sent from the Gods; and for the books that remained, they advised that the woman should have what she asked; As soon as the woman had delivered her books, she presently vanished, and was never seen again; only warning them, to keep the books as safe as possibly they could. For the safe keeping of these, *Tarquinius* chose two of the Noblemen, or *Patricii*, calling them *Duum-viri*, appointing them, as well by study to expound, as with.

*Munster*, in sua  
Cosmog. l. 2.

*I* Fenest. de  
sacerd. c. 13:

*m* Serv. *Æn.*  
lib. 6.

*n* Munst. in sua  
Cosmog. lib.

Credite me  
vobis folium  
recitare Si-  
byllæ.

*e* Epist. lib. 2.  
epist. 1.

with care to keep those Oracles. In process of time, the people obtained, that ten should be appointed to this office, five of them being chosen out of the Commons, and five out of the Nobles: and then they were called the *Decem-viri*. Afterward by *L. Sylla*, as it is thought, five more were added, so that they were then called the *Quindecem-viri*: nay the number was increased by *Sylla* unto forty, *m* as *Servius* thinketh, but still called by the name of *Quindecem-viri*. Of these women that had the spirit of Prophecy, ten were very famous: the first was called *Perfica*, the second *Libyca*, the third *Delphica*, the fourth *Cumaea*, the fifth *Erythraea*, the sixth *Samia*, the seventh *Cumana*, the eighth *Helleponia*, the ninth *Phrygia*, the tenth *Tiburtina*: They all prophecieed of the incarnation of Christ. The place where these books were kept, was within the Capitol under ground in a Chest of stone, where they remained safe until the burning of the Capitol, at which time they also were burned. Notwithstanding many of the Prophecies have been known, partly by tradition, and partly being taken out of other copies in other countries. One of the Prophecies concerning our Saviour Christ, was uttered by *Sibylla Delphica* in manner as followeth: *n Nascetur Propheta absq; matris coitu ex utero ejus*, that is, There shall be a Prophet born without any copulation of the Mother, even out of her womb. It was spoken at *Delphos*. All their Prophecies were of that certainty, that when we would averre any thing to be undoubtedly true, we use to say, it is *Sibylla folium*, as true as *Sibylla's* Oracles. The *Cumaea Sibylla* did write her Oracles at the mouth or entrance of her Cave in leaves of trees, which the fiercenes of the wind did oftentimes so scatter, that they could hardly be brought in order again: insomuch that when we would shew the great difficulty of bringing things in order, we may use *o Politian* his words, *Laboriosius est quam Sibylla folia colligere*, it is easier to gather *Sibylla's* leaves.

This name *Sibylla* is not a proper name, but an appellative,

tive, common to all women endowed with the spirit of Prophecy, taking their denomination from *prophetae*, which is in the *Æolick* dialect the same that *θεοίς* God, and *βούλη*, i. e. counsel, because they did open and declare the counsel and determination of God unto the people. It appertained also unto these *Quindecem-viri* above-mentioned, to see that saerifice, and divine service, that supplications, and processions, expiations, and all ceremonial ritus were duly performed.

*p* Serv. *Æn. 1.6.*  
*prophetae* enim De-  
os, non *θεοίς*,  
& *confilium*  
*non βούλη*, sed  
*βούλη*, appelle-  
bant.

*Æolice gene-  
re sermonis.*  
*Lact. de falsa  
religione. 1.1.*

*c. 2.*

### C A P. 13.

#### *De Bona Dea, & Sacris ejus.*

This Goddess which is so famous by the name of *Bona dea*, is the Globe of the earth : which is therefore termed *Bona dea*, the good Goddess, because we reap so many good things from the earth. She is called also *Ops*, the helping Goddess, *ab ope*, from help, because by her help we live. She is called *Fasha*, and *Fauna*, i. e. the Goddess of speech, because young children do never speak until they are able to go, and so have touched the earth. The *Grecians* called her *γυναικεία θεά* the female Goddess, because that no male might be admitted to her sacrifices ; nay the very pictures of men were at that time to be covered. The inner room where her sacrifices were, was called *τομύρανσιον* the place for womens assemblies. <sup>q</sup> Those that were chief in these sacrifices, were the Vestal Nuns. This good Goddess was supposed to be the wife of *Fannus*, & upon a time to have been taken drunk with wine by him : for which fault *Fannus* was said to have beaten her to death with rods of Myrtle tree ; but afterward being sorry for that he had done, in amends he made her a Goddess, and as it were ever after detesting the Myrtle tree, he hallowing all other herbs and flowersto be used in the sacrifices, forbade the Myrtle tree. Some say she was so chaste, that she was never seen by any man but by her husband ; and in respect of

*q* Cic. *oraade*  
*Arup. respon-  
sis.*

Alex. Gen.  
dier. 1.6.c.8.

her chastity, the Myrtle tree is forbid, because it was consecrated to *Venus* : but whereas in this sacrifice they used wine, they called it not by the name of wine, but milk or honey ; whence they called the vessel wherein the wine was put, *Amphoram mellarium*, i. e. the honey vessel. This sacrifice became very famous by reason of *Clodius*, who being in love with *Pompeia*, *Julius Caesars* wife, came unto these sacrifices in womens apparel, and was found out by *Aurelia*, *Julius Caesars* mother. This *Clodius* became so infamous for this, and other his adulterous pranks, that he occasioned a common Proverb amongst the Romans, *Clodius accusat Machos*, answerable to which our English Proverb is, One Thief accuseth another.

## C A P. 14.

## De Cybelle, &amp; Sacerdotibus ejus.

**T**He Goddess *Cybelle*, or rather *Cybellus*, was in her infancy exposed unto wilde beasts, unto the hill *Cybellus* ; where she being nourished by the wilde beasts, afterward became a woman of admirable beauty, and being found by a shepherds wife, was brought up by her as her own child, and called *Cybelle*, from the hill *Cybellus*. She excelled in natural gifts, and was the first that used a Taber and Pipe, and Cymbals among the Greeks. Moreover she tenderly loved children, and therefore was called *magna mater* : she was also called *mater deorum*, the mother of the Gods ;

*Ipsa deum fertur genetrix Berecynbia.* Virg.

She was called *Rhea*, ῥέω, to flow, because she doth flow and abound with all kind of goodness. She was also named *Pessinuntia*, from the City *Pessinus* a Mart town in *Phrygia*, where she had a Temple. Moreover, she was called *Berecynbia*, from the hill *Berecynthus* in *Phrygia*, where she was worshipped. Her Priests were called *Galli*, and their chief governour *Archis Gallus* ; they took their name from a certain river in *Phrygia*, called *Gallus* : of which

Pomp. Lx.  
de sacerd.

which whosoever drank, he became so mad, that he would presently geld himself, (as in truth all her Priests were enjoyned to geld themselves with a fish shell) the original of which custom is rendred thus: *Cybelle* loved a young man of *Phrygia* called *Aetys*, and him she appointed chief overseer for her sacrifice, upon condition that he would keep himself chaste perpetually: But he not long after deflowred a Nymph, for which fact *Cybelle* bereft him of his wits and understanding, so that he in his madnes did geld himself, and would have killed himself also, & had not the gods in their commiseration towards him, turned him into a Pine-tree. In remembrance of him ever after, her Priests were gelded. Every year the *Prators* did sacrifice unto this Goddess. But the performance of the holy and religious rites at that time did belong unto a *Phrygian* man and *Phrygian* woman, chosen for that purpose: Which according to the manner of their countrey being appareld with a party-coloured garment, called in Latine *Synthesis*, or *Amictus variegatus*, and carrying the picture of their Goddess about with them in the streets, they struck their breast with their hands, keeping tune with the Tabers, Pipes, and Cymbals, which other people following plaid upon. The Priests were also called *Corybantes*, from one *Corybantus*, which was one of her first attendants; and hereupon we call the Cymbal *ara Corybantia*: In this manner dancing about the streets, they begged money of the people whom they met: and hence were they named *Cybelle* her collectors, or her *circulatores*, *id est*, Juglers. Some called them *urtagyenus* from *urte*, which in this place signifieth *Cybelle*, called the great mother, and *urpans*, a beggar or gatherer of alms. <sup>¶</sup> Others have called them *Mitricia*: But by what name soever they were called, the place was so infamous by reason of their drunkenness, and incivility used at these times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybellinum, Cy-*

*t Cybellius*  
*Aetys Exuit*  
*hac homi-*  
*nem truncos*  
*induruit illa*  
*Ov. Met.*

<sup>¶</sup> *Rosin. ans.*  
*l. 3. c. 27.*

belle her Jugler. Neither was it lawful for any free-born to undertake that office.

## C A P. 15.

## De Collegio Pontificum, &amp; Pontifice Maximo.

x Plutar. in  
Numa. y Fenest. de  
sacerd. z Rosin. ant.  
l. 3. c. 22. **T**HIS word *Pontifex* is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also *Pontifies* in English, from one part of their office, which was to have the oversight of a great wooden bridge, called in Latine *Pons publicius*, being so great that Carts and wains might pass over it, having no arches to uphold it, but only great piles and posts of wood : *x* and that which is most remarkable in it, was that it was joyned together only with wooden pins, without any iron at all. Others are of opinion, that they were termed *Pontifices quasi potifices*, from *potis* and *fasio*, of which opinion *Lucan* seemeth to be, according to that, *Pontifices sacri quibus est commissa potestas*. Concerning the *y* number of them, only four were appointed by *Numa*, all which then were to be chosen out of the *Patricii*: afterward four more were added out of the Commons. These were called *Pontifices majores*, or chief Pontifices, to distinguish them from seven other, which afterward *Sylla* added, and *z* called them *Pontifices minores*, inferiour Pontifices. The whole Company of them was called the Colledge of Pontifices. The Colledge is priviledged from all allegiance, being not bound to render account of their doings either to the Senate or Commonalty. They were to determine all questions concerning Religion, as well betwen their Priests as between private men : they had authority to punish any inferiour Priest, if he either detracted or added unto those Religious Rites which were prescribed him. They had their great Pontifie, whom they called *Pontificem Maximum*. These Pontifices were wont to exceed in their diet, insomuch that when the Romans woulde shew the greatness of a feast,

feast, they would say it was *Pontifica cana*, i. e. according to our English phrase, a feast for an Abbot. *Cana'adjici-alis* is taken for the same. *a Lipsius* in the exposition of the latter phrase taxeth the Printers negligence, and is of opinion, that it should rather be printed, *Cana aditialis*, understanding hereby a solemn feast made by Magistrates *in aditu honoris*, at their entrance into their office, and at their day of inauguration. *a Lib. 4. de magn. Rom. c. 9.*

C A P. 16.

*De Epulonibus.*

**T**He Pontifices in old time appoined three men, whom they called *b Trium viros Epulonum*, (from *Epulum* a feast) to have the oversight of thefeasts made at sacrifices; afterward by reason of two twice added, they were called first *Quinque-viri*, and at length *Septem-viri Epulonum*.

*b Lazius de Repub. Rom. l. 3. cap.*

C A P. 17.

*De Titis.*

**A** Nother sort of religious men there were, which lived in the Suburbs of the City, and practised Sooth-saying; they were called *c Titii* from the name of the birds which they observed: which in Latine were called *Titia*.

*e Paneirol.lib. rerum deper-dit.cap. dc mo-le Hadriani.*

C A P. 18.

*De Virginibus Vestalibus.*

**N**ear unto *Castors* Temple stood the religious House or Nunnery, dedicated to the Goddess *Vesta*: where at the first were four, after fix Virgins, or Votaries elected, whose office was chiefly to keep the sacred fire; the extinction whereof proved ominous, and did portend some evil event shortly to happen. And therefore for their negligence herein, as for all other small faults, they being had into a dark corner, stripped naked, and

a curtain drawn half way over them, the chief Pontifie scourged them: neither was it lawfull to kindle the fire once put out, with any other fire, but from the Sun-beams; for which purpose they had certain instruments

<sup>c</sup> Plutarch. in named *cōspīa*, which were formed in the manner of a Numa.

*pyramis*, but hollow; so that the beams being collected within the circumference, and meeting in the *vertex*, did easily kindle any combustible matter put into it; but chiefly if the matter was of black colour; because, as Philosophy teacheth, a dark colour doth congregate, or collect the beams, whereas whiteness doth disperse them.

<sup>d</sup> Suet. in Ju-  
lio. A second part of their office was to work reconciliation between parties offended, as appeareth by <sup>d</sup> Suetonius, where we may read, that by their intercession *Sylla* was reconciled to *Cæsar*. They were chosen into this place between the sixth and the eleventh year of their age: and they were to remain in this Nunnery thirty years space, ten years to learn their ceremonies, and mysteries, ten years to exercise them, and ten years to instruct others: within which space if they had suffered their bodies to be defiled, they were to undergo

<sup>e</sup> Vid. sup. p. 14. that fearful punishment \* afore-mentioned. But these thirty years being expired, marriage was lawful for them; so that they laid aside their scepters, their fillets, and other their facerdotal ornaments. Notwithstanding those which did marry, in the end died fearfull deaths: whereupon they chose rather to abitain commonly. The Romans had them in great honour, so that they never walked abroad, but with an iron scepter in their hands, and whatsoever malefactor met them (if the Nun would take her oath it was by chance) he escaped punishment. They were named *Vestals* from their

<sup>e</sup> Munst. in sua  
Cosmog. l. 2.  
c. 9. Goddess *Vesta*, which word (as <sup>e</sup> Munster writeth) is derived from the Hebrew *Radix* signifying fire. The eldest was called *Maxima Vestalis Virgo*, i.e. the Lady Prioress, or chief governess.

## C A P. 19.

## De veterum sacrificiis, &amp; ritu sacrificandi.

**V**HATSOEVER was burnt or offered up unto the Gods upon an Altar, it had the name of a sacrifice: and sometimes it was called *victima, quod vincita ad aras stabat*, because the beast to be sacrificed stood bound unto the Altar; sometimes *Hostia*, from an absolute verb *Hostio*, which is to strike, because certain under-officers called in Latine *Popa* (standing by the Altars, all their upper part naked, and a Laurel garland upon their head) did *Hostiare victimam*, i.e. strike down and kill the sacrifice. Others are of opinion, that this name *Hostia* is taken from *Hostis* an enemy, according to that of Ovid, *Hostibus a domitis hostia nomen habet*; because either before war, to procure the Gods favour, or after war, in token of thankfulness, they did *hostiam ferire*, i. e. offer up the sacrifice. The second difference of sacrifices hath been occasioned in respect of the time, and so they have been called *pracidanea*, or *succidanea*, *quasi pracidanea & succidanea*. Those sacrifices which were offered up the day before any solemn sacrifice, were called *pracidanea hostia*, fore-sacrifices, as we English *pracurforem*, a fore-runner: which fore-sacrifices, if by any token they found unlucky, then would they offer up a second sacrifice, which they termed *hostian succidaneam*; and because these second sacrifices were to be offered only in stead of the other, when they were unlucky or faulty, hence hath *Plautus* used this speech, *menm tergum fultitia tua subdes succidaneam?* Must I be whipped for thy fault? The manner of sacrificing was as followeth; some certain days before any sacrifice was to be performed, the Priest was wont to wash his whole body, f especially his hands and feet, which if he had not washed, the sacrifice was accounted polluted: and alluding unto this custom, we say, a man

doth

f Vid. Eras.  
Adag.

doth *Accedere ad rem illotis manibus, or illotis pedibus*, as often as he enterpriseth any busines without due reverence or preparation thereunto.

Μανίποις ἀξένες δι τοις λειτειν αἰθονται ὄντος  
Κρονίον ἀνιπεστον. Hesiod. ἐργαστὶ ημέρῃ.

Plutarch.  
Numa.

Serv. Acc.  
lib. 1.

Pancirol.  
lib. rerum de-  
perdit. c. de  
sale Ammoniaco.

Textor. in  
sua officina  
Sparge salsa  
collatauorum  
mola. Sen.  
Oedip. Act. 2.  
scen. 2.

Pancir. lib.  
rerum deper-  
dit. c. de Am-  
moniaco sale.  
Media inter  
cornua fundit.  
Virg. Æneid.

Moreover, the Priest was to abstain from his Marriage-bed, as likewise from divers kinds of meats, and at the time of his going to sacrifices, either himself, or some inferiour Sexton going before him with a rod or wand in his hand (called *commentaculum*) g̃ used this form of words unto the people, *Hoc age*, attend this you are about: which custom seemeth to have had its original from the *Grecians*; for before the time of sacrifice, the *Grecian* Priest used almost the like speech unto his people, as *is n̄ s̄i*, i.e. who is here? the people answered, *πολλοὶ καὶ γενεῖ* i.e. many men and good. After this preparation, then did the Priest, laying his hands upon the Altar, rehearse certain Prayers *b* unto the God *Janus*, and the Goddess *Vesta*, because the Romans were perswaded, that without their intercession, they might not have access unto the other Gods: his prayer being ended, then did he lay *s* upon the beasts head a little Corn, together with a Cake made of meal and salt, called in Latine *Mola*, *k* *Mola erat far tostum, sale aspersum*. From this ceremony the act of sacrificing hath been termed *Immolatio*. After this the Soothsayer drank wine out of an earthen or wooden Chalice, called in Latine *Simpulum*, or *Simpurum*. It was in fashion much like our Ewers, when we pour water into the Bason. This Chalice was afterward carried about to all the people, that they also might *libare*, i.e. lightly taste thereof, which Rite hath been called *Libatio*. Now every one having tasted thereof, the rest of the Wine, with Frankincense mixt in it, was to be poured upon the beasts head, *m* between the horns, one crying out with a loud voice, *Macta est bofia*, i.e. *magis anta*, more increased and made more pleasing to the Gods; as *Virgil* saith, *Mactenova virtus*

*virtute puer*, i.e. O good childe which increasest in vertue. And hence, even from this term, we may conjecture, that the word *Macto*, which signifieth to kill, and sometimes to sacrifice, hath had its original, because they did immediately after that voice, *mactare hostiam*, that is, slay the sacrifice ; and that was done in this manner ;

¶ First the Priest did pluck off some of the beasts hairs between the horns, and cast them into the fire, calling them his *prima libamina*, i. e. his first offerings : Then did he, turning his face toward the East, draw a long crooked knife upon the beasts back, commanding his under-officers, which he called *Popa*, (others *Cultarii*, from their knife ; *Victimarii*, from the hoast ; and *Agones*, because they standing ready to give the stroke, often used this word *Agon*, for *Agone*, i.e. must I to my work ? ) to kill the beast. The other people standing by, some did with vessels save the blood, others did flea or skin the beast, others washed it. Anon, some Soothsayer or Priest did observe the entrails, turning and winding them with a knife, which was called *Secesspita*, à secando : for he might not touch them with his hand, they conceiting, that if the sacrifice had proved polluted, his hand would then have perished. Now after the Soothsayer or Priest had sufficiently turned the entrails, and found no ill token therein, then did those *Popa* or Church-butchers, cut off from every bowel some portion, which after they had rolled in barley meal, they sent in baskets to the Priests, and the Priests taking it up into a broad charger or platter, called *discus*, or *lanx*, laid it upon the altar and burnt it, and o this was properly termed *litare*, or *reddere*, i. e. to satisfie by sacrifice, or to pay the sacrifice which was owing unto the gods. After that the portion laid out for the gods had been burnt, then did all the people repair unto a common feast ; where, as they were eating, they sung Hymns and Songs in the praise of their Gods, and playing on Cymbals, they danced about the Altars, intimating thereby, that there was no part of their body, but

¶ Rosin. ant.  
1. 3. c. 33.

¶ Joac. Came-  
rar. pro Flac.

but should be employed in the service of their gods. Now until all their Ceremonies and Mysteries were finished, it was not lawful for any to taste of this feast: insomuch that we since have used to check a glutton, or greedy-gut, which cannot abstain from his meat till grace be said, in this manner, *Sacra hand immolata devorat.*

## C A P. 20.

*De Nuptiis, & nuptiarum renunciatione.*

Seeing that Marriages and Burials have such dependence upon the Priests, it will not be amiss to conclude this Section with two Chapters, briefly opening the Ceremonies of both. Before we come to the solemn Ceremonies used by the *Romans* in their marriages, we will first shew the manner of their contracts, which were called by the *Romans* a *Sponsalia à Spōndendo*, because in their contracts each did promise other to live as man and wife. Now the manner of contracting was commonly thus: They had for the greater security, writ down the form of the contract upon tables of Record, as appeareth by *Juvenal*, *Sat. 6.*

*Si tibi legitimis pactam, junctamq; tabellis  
Non es amaturus* —

These tables were also sealed with the signet of certain witnesses there present, who were termed from their act of sealing, *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothsayer, and the woman another, with whom first they would consult. Whence *Juvenal*, *Sat. 10.*

— *Veniet cum signatoribus anspex.*

The token or sign which these Soothsayers in time of observing accounted most fortunate, was a Crow: *b Ea enim cornicium societas est, ut ex duabus sociis altera extineta, vi-  
dua altera perpetuo maneat.* The man also gave in token of good will a Ring unto the woman, which she was to wear upon the next finger unto the little of the left hand,

*b* Anlex. c. 1. 2.

hand, *e* because unto that finger alone, proceedeth a certain attery from the heart. The word *Nuptia*, which signifieth marriage, had its derivation à *nubo*, *d* which verb in old time signified to cover: the custom being, that the woman should be brought unto her husband with a yellow vail (called *Flammeum*) cast over her face. Again, because of the good success that *Romulus*, and his followers, had in the violent taking away of the *Sabine* women, *f* they continued a custom, that the man should come and take away his wife by a seeming violence, from the lap or bosom of her mother, or the next kin. She being thus taken away, her husband did disleaver and divide the hair of her head with the top of a spear, wherewith some Fences formerly had been killed. This spear was called by them *Hasta calibaris*, *g* and the ceremony did betoken, that nothing should disjoyn them but such a spear, or such like violence. The next day after the marriage, a solemn feast was held, where all the Bride-mans and Bride-womans friends met to make merry; this feast they called *Reporia*. We must note, that *h* three manner of ways a woman became a mans lawful wife: *Usu, Confarreatio, Coemptio*. A woman became a mans lawful wife, *Usu*, i.e. by prescription or long possession, if that she were wed with the consent of her overseers, & so did live with the man, as with her lawful husband, a whole years space, *nillo interruptu usu*, i.e. i she being not absent from him three nights in the whole year: and some have thought, that the counterfeited violence in taking away the Maid from her friends, was used only in this kinde of marriage. A woman became a mans wife *confarreatio*, i. e. by certain solemnities used before a Pontifie, or chief Bishop, when the woman was given unto the man, using a set form of words, ten witnesses being present, and a solemn sacrifice being offered, at which the couple married shoud eat of the same barley cake which formerly had been used in the sacrifice. Which sacrifice was termed, *afarre, confarreatio*; and the marriage

*e* Aul. Gel.*d* Rosin. ans.  
*l. 5. c. 37.**e* Plin. l. 21. c. 8.*f* Sig. de jur.  
Rom. 1. c. 9.*g* Salmuth. in  
Panciroli. lib.  
rerū deperdit.  
cap. de nuptiis.*b* Boeth. Topi-  
cor. 2. vid.  
Cœl. Rhod. I.  
28. c. 17.*i* Sig. de jur.  
Rom. l. 2. c. 9.

¶ Cic. orat. pro  
Murena.

I Sig. de jur.  
Rom. l. 1. c. 9.

m Suet. in  
Tib. c. 35.  
n Cic. orat.  
pro Murena.  
It. Fr. Syl.  
Ibidem.

o Cael. Rhod.  
l. 28. c. 17.  
p Hiero. Fer-  
rius in Philip-  
pic. orat.

it self *Farrasia*, & sometimes *Sacra*, simply; the dissolution of this kinde of marriage *Diffarreatio*. A woman became a mans wife, *Coemptione*, i. e. by buying and selling, when the woman did under a feigned form of sale buy her husband, by giving him a piece of coyn.

*Veteri Romanorum lege, subentes mulieres tres ad virum asse ferre solebant: atq; unum quidem quem in manu tenebant;*

*tanquam emendi causa marito dare.* To these three some teach, that a fourth sort of marriage was in use among

the Romans; namely, when a woman became a mans wife, *Sorsitio*, by a kind of Lottery: and of this they say *m Sueton. speaketh.* In that kind of marriage which was per *Coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chaste and happy marriage of *Caia Cacilia*, wife to *Tarquinius Priscus*; from whence sprang a custom among them, that the new married wife, when she was brought home unto her husbands house, was to use this proverb, *Ubi tu Caius, ibo ego Caia*, by which word she signified, that she was now owner of her husbands goods, as well as himself: and therefore *Erasmus* hath expounded that saying by these words, *Ut tu dominus, ita ego domina*;

o And she that was thus married per *Coemptionem*, was properly called *Mater-familias*. p If any of these Ceremonies were omitted, then was the marriage termed *Nuptia innupta*, in which sense we call our enemies gifts no gifts, *Ex opere adiutoria sive*. These Ceremonies being ended, towards night the woman was brought home to her husbands houle, with five Torches, signifying thereby the need, which married persons have of five Gods or Goddeses, i. e. *Jupiter, Juno, Venus, Snadela, and Diana*, who oftentimes is called *Lucina*, the reason of the name being rendred by *Ovid*:

— *Dedit hac tibi nominal lucus,*  
*Aut quia principium tu Dea Lucis habes.*

There are of opinion, who think that the use of these Torches

Torches was not only to give light, but to represent the element of fire : for no marriages were thought happy, which were not contracted *Sacramento ignis, & aquæ*; for which reason the custom likewise was, to besprinkle the new married woman with water ; yea, they did both in the time of their contract touch water and fire provided for that purpose. The signification of this ceremony, some think to be thus : The fire, because it is an active element, to represent the man ; the water, because it is passive, to represent the woman. Others say, that in the community of these two elements, was intimated the community between man and wife, of all other their goods and possessions, which was more fully declared in that fore-quoted proverb, used by the wife, *Ubi tu Caius, ibi ego Caia*. The matter whereof these Torches were made, was a certain tree, from which a pitchy liquor did issue : It was called *Teda*, and thence have the Poets figuratively called both the Torches and the Wedding it self *Tedas*. When the woman had been thus brought to the door, then did she anoint the posts of the door with oyl, q from which ceremony the wife was called *uxor quasi unxor*. This ceremony of anointing being ended, the Brideman did lift her over the threshold, and so carried her in by a seeming force, because in modesty she would not seem to go without violence into that place, where she should lose her Maidenhead. At her carrying in, all the company did cry out with a loud voice, *Talassio, Talassio*, for which custom, r Plutarch alleadgeth many occasions ; this being one. Among those who ravished the daughters of the *Sabines*, there were found some of the meaner and poorer sort, carrying away one of the fairest women ; which being known, certain of the citizens would have taken her from them, but they began to cry out, that they carried her to *Talassius*, a man well beloved among the Romans ; at which naming of *Talassius* they suffered her to be carried away, themselves accompanying her, and often crying *Talassio, Talassio*.

K 3

From

Pancirol. lib.  
rerum deper-  
dit. cap. de Nu-  
ptiis.

q Serv. En. 4.

r Plutar. vir.  
Pompeii.

From whence it hath been continued a custom among the Romans, ever at their marriages to sing *Talassio, Talassio*, as the Greeks did *Hymen Hymenae*. From this custom of leading or bringing home of the new married Bride, cometh that Comical phrase, *Ducere uxorem*, to marry a Wife. She being thus brought home, received the keys of her husbands house, whereby was intimated, that the custody of all things in the house was then committed unto her.

*s* Alex. Gen.  
dier. l. 2. c. 5.

*t* Lips. Elect.  
l. 1. c. 17.

*u* Vid. F. Syl.  
pro Cluent.

*\** Sig. de jur.  
Rom. l. c. 6.

*x* Rofin. ant.  
l. 5. c. 38.

*s* The marriage bed was called *Genitalis lectus*, as we may suppose, *quaest Genitalis*. *t* Sometimes it was called, *Lectus adversus, quod hunc lectulum religiose servari mos fuit*, & in atrio colloqui janna ex adverso, i. e. they placed this bed in the Court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received gifts of her friends, which the Lawyers term *Nupcialia dona*. *u* But *Cicerio* expoundeth these *Dona Nupcialia*, to be certain tokens, which the husband sent to his wife before the betrothing. If after the marriage any discontent had fain out between the man and his wife, *\** then did they both repair to a certain Chappel, built in the honour of a certain Goddess: called *Dea viri-placa, à virū placandis*. Whence after they had been a while there, they returned friends. We have thus seen the Rites and Ceremonies which the Romans used in their contracts and marriages; it would not be impertinent to annex the manner of their divorcements, which upon just causes were permitted. *x* There were two manner of divorcements, the one between parties only contracted, the second between parties married. The first was properly called *Repudium*, in which the party suing for divorce used this form of words, *Conditione tua non star*. The second was called *Divortium*, wherein the party suing for it, used these words, *Restuas tibi habeto: vel restuas tibi agito*. Both these kinds were termed *Matrimonii renunciations*, renouncing or refusal of marriage. Where we must

must note, that instead of this verb *renunciare*, divers good Authors do use this phrase, *Mittere*, or *Remittere nuncium*: as *C. Caesar Pompeia nuncium remisit*, *C. Caesar* hath divorced *Pompeia*. And alluding hereunto *y Cicero* *y Ep. fam 1.5.* saith, *virtus nuncium remisit*. i.e. he hath cast of all goodness, he hath even divorced vertue. Secondly, we must note that this verb *Renuncio*, doth not only signifie to renounce or to refuse, but many times in *Tully* it signifieth to declare or pronounce a Magistrate elected, as *Renunciare Consulēm Pratorēm, &c.* The reason why in matrimonial contracts it signified to renounce or refuse, was because in these divorces they did oftentimes send to their wife, *per nuncium*, by a messenger, some bill or scrole of paper, containing the causes of the divorce. Moreover we are to observe, that in these divorcees, the ceremonies were quite contrary to those in marriages; the just causes of divorce being fore-signified to the Censors, the marriage tables were broken, the dowry restored, the keys of the house taken from the woman, and she turned out of doors: all which ceremonies are at large treated of by *Th. Dempster. 1.5. Antiq. Rom. c. 38.*

## C A P. 21.

*Quo apparatu, quibusq; ceremoniis apud veteres defuncta corpora igni tradebantur.*

**T**He Romans in ancient time, when they perceived a body dying, had such a custom, that the next of the kin should receive the last gasp of breath from the sick body, into his mouth, as it were by the way of kissing him: (to shew thereby how loth and unwilling they were to be deprived of their friends) and likewise should close the eyes of the party being deceased. Whence *Anna* said unto her sister *Dido* now dying,

*z Extremus si quis super halitus errat,*

*z Virg. En. 4.*

*Ore legam*

And *Penelope* wishing that her son *Telemachus* might outlive

live her self and his father, writeth to her husband in this manner,

*Ille meos oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seven days unburied, washing the corps every day with hot water, and sometimes anointing it with oil, hoping that if the body were only in a slumber, and not quite dead, it might by these hot causes be revived.

*Per calidos latices aliena undantia flammis  
Expediunt, corpusq; lavant frigentis & ungunt.*

In these seven days space, all the dead mens friends meet together now and then, making a great outcry or shout with their voices, hoping that if the dead body had been only in a sound or sleep, he might thereby be awaked. This action was termed *conclamatio*; whence when we have done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*; for this third conclamation or general outcry (which was alway upon the seventh day after the decease) was even the last refuge, at which if the body did not revive, then was it carried to burial, being invested with such a gown, as the parties place or office formerly had required. Those who had the dressing, chesting, or embalming of the dead corps, were called *Pollinatores*: After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead mans houle, with his face and heels outward toward the street, according to that of *Perfus*:

*Tandemq; beatulius also*

*Compositus lecto, crassisq; latus amomis*

*In portam rigidos calces extendit* —

Herewith accordeth Homer, speaking of *Patroclus* his Funeral,

*Ος μοι ἐν τῷ θάνατῷ θεραυεῖσθαι τοῖς χαλκῷ  
Κεταλ αὐτὸν περιθετοί τοσαύτερος* — i.e.

*Qui mihi in subernaculo confossus acuto are  
Facet ad vestibulum conversus.*

This ceremony was properly called *corporis collocatio*: and fast by this bed near the gate also was erected an altar,

tar, called in Latine *t. Acerra*; upon which his friends did every day offer incense until the burial: The gate on the outside was garnished with Cypres branches, if the dead man were of any wealth or note, for the poorer sort by reason of the scarcity of the tree could use no such testimony of their mourning.

<sup>t</sup> Alex. Gen.  
dier. l. 3. c. 7.

*u Et non plebeios luctus testabat cypressus.*

<sup>u</sup> Lucanus.

In these seven days space, certain men were appointed to provide all things in readiness for the funeral; which things were commonly sold in the *x* Temple of *Libitina*, from whence those providers were termed *Libitinarii*, though sometimes this word *Libitinarius* doth signify as much as *capularis*, an old decrepit man ready for the grave. Upon the eighth day a certain Crier in the manner of a Belman went about the Town to call the people to the solemnization of the funeral in this form of words; *Exequias y L. Tito L. Filio qnibus est* <sup>y</sup> Rosin. ant. l. 5. *commodum ires. Jam tempus est. Ollus ex adibus Effertur.* After the people had assembled themselves together, the bed being covered with purple, or other rich covering, the last conclamation being ended, a Trumpeter went before all the company, certain poor women called *Præficia* following after, and singing songs in the praise of the party deceased: where we must note, that none but the better sort had a Trumpet sounded before them; others had only a Pipe; *z Senatoribus & patriciis suba, minoribus & plebeis sibia canebant sisticines*, this word *Sisticines*, signifying either a Trumpeter or Piper, because they did both *ad sitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or chief Citizens, he was not carried out upon a bed, but in a Coffin upon a Bier. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselves to bear the corps; and because the poorer sort were not able to undergo the charges of such solemnities, thereupon were they buried commonly in the dusk of the evening, and hence *a vespertino tempore*, those that carried

<sup>x</sup> Alex. Gen.  
dier. l. 5. c. 26.

<sup>z</sup> Alex. Gen.  
dier. l. 3. c.

ed the corps were termed *vespa*, or *vespillones*. In the burial of a Senator or chief Officer, certain waxen images of all his Predecessors were carried before him upon long poles or spears, together with all the ensigns of honour which he deserved in his life time. Moreover, if any servants had been manumized by him, they accompanied the mourners, lamenting for their masters death. After the corps, followed the dead mans children, the next of kin, and other of his friends, *atriti*, i.e. in mourning apparel. From which act of following the corps, namely *à sequendo*, these funeral rites have been termed *Exequia*, as *Donat* hath observed upon that of *Terence*, *Funus interim procedit, nos sequimur*. Which rites, because they were performed as debts due unto the party deceased, hence were they also called *Insta*. *Eo dicuntur iusta, quod iure mortuis factitari debent à vivis*. *Polid. de invent. l. 6. c. 9.* The corps being thus brought unto their great Oratory called the *Rofra*, the next of the kin <sup>a</sup> *laudabat defunctum pro rostris*, i.e. made a funeral Oration in the commendation principally of the party deceased, but touching the worthy acts also of those his Predecessors, whose images were there present. The Oration being ended, the corps was in old time carried home again in manner as it was brought forth.

*Sedibus hunc referente suis & conde sepulchro.*

But afterward by the law of the twelve tables, it was provided, that no man besides the Emperour and Vestal Nuns should be buried within the City, though some upon especial-favour have obtained it. The manner of their burial was not by interring the corps, as in former times it had been, but burning them in a fire, <sup>b</sup> the reason thereof being to prevent the cruelty of their enemies, who in a merciless revenge would at their conquests dig up the buried bodies, making even the dead also subjects of their implacable wrath. This fire before the burning was properly called *Pyra*; in the time that it burned, it was called *Rogus*, & *quod tunc temporis Rogari*

<sup>a</sup> Salmush. in Panciro. 1. renum deperdit. de exequiis.

<sup>b</sup> Serv. Aen. 5.

Rogari solerent *Manes*; after the burning, then was it called *Bustum, quasi bene ustum*. This *Pyra* was alwaies built in form of a Tabernacle, as it is \* above more at \*Vid. sup. p. 30. large to be seen; whither after the dead man had been brought, his friends were wont to cut off one of his fingers, which they would afterward bury with a second solemnity. The charges at funerals growing by this means to be doubled, the law of the 12. Tables provided in these words, *Homini mortuo ossa ne legito, &c.* that no mans finger should be cut off, except he died either in the war, or in a strange country. Where we must observe, that *lego* in this place doth signifie as much as *adimo* or *ausfero*, in which sense we call him *sacrilegum, qui legit, i. qui adimit & ausfert sacra*. After the dead body had been laid upon the *Pyra*, then were his eyes opened again to shew him heaven, if it were possible: <sup>d</sup> and withall an half-penny was put in his mouth, they superstitiously conceiting that that half-penny was *naulum Charonis*, the pay of *Charon* the supposed ferry-man of Hell, who was to carry mens souls in his boat over the *Stygian* Lake after their decease. About this *Pyra* were many boughs of Cypress trees to hinder the evil sent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averse from the *Pyra*, did kindle the fire with a torch: After this, commonly certain Fencers hired for this purpose did combate each with other, till one of them was killed, they were termed *bustharii* from *bustum*. The blood of those that were slain, served in stead of sacrifice to the infernal Gods, which kinde of sacrifice they termed *Inferiae*. <sup>e</sup> *Inferiae sunt sacra mortuorum que inferis soluntur*. Anon after the body had been buried, his nearest friends did gather up the ashes and bones, which being washed with milk and wine, were put into certain Pitchers called *urna*: whence this word *urna*, is often used by the Poets, to signifie a Grave or Sepulchre, as — *Unarequiescit in urna*; *Ovid. Met. lib. 4.*

<sup>d</sup> Alex. Gen.  
diep. l. 3.

<sup>e</sup> *Sorvius.*

f Rosin. ant.  
1. 5.

Though properly *sepulchrum* was in old time a vault or arched roof, round about the Walls whereof were placed certain coffins called *loculi*, within which those former *urnæ* were laid up and kept, namely, two or three in each coffin. Now these funeral solemnities were commonly towards night, insomuch that they used torches;

g Servius in  
Æneid. l. 1.  
b Hub. in Cic.  
ep. fam. l. 4.

these torches they properly called *g funalia à funibus cera circundatis*, unde *funus* dicitur. h Others are of opinion, that *funus* is so said from the Greek word *εβρε*, signifying death or slaughter. The bones of the buried body being thus gathered up, then did the Priest besprinkle the company with clean water thrice, and the eldest of the mourning women called *Praefixa*, with a loud voice pronounced this word *Ilicet*, thereby dismissing the company, (the word signifying as much as *Ire licet*;) Then presently did the company depart, taking their farewell of the dead body in this form of words:

*Vale, vale, vale; nos te ordine quo natura permiseris sequemur.* If any of these ceremonies had been omitted, i then was it termed *sepultura insepulta*, in the same sense as *nuptia* formerly were termed *innupta*. The old and aged men were invited, after the burial, to a feast, or funeral

g Servius in  
Æneid. l. 5.

l Antestig. in  
Ter. Adelph.  
Act. 4.

banquet, called *silicernium* & *quasi silicenium*, i.e. *canas supra silicem posita*, their custom being to eat that feast upon an Altar of stone; and because this feast was only eaten at funerals, and by the elder sort, l hence figuratively this word *silicernium* doth sometimes signify an old cripple ready for the grave. The poorer people in stead of a feast, received a dole or distribution of raw flesh: this dole was termed *Visceratio*. Moreover there was a potation, or drinking of wine after the burial, called *Murrata*, or *Murrina potio*, which afterwards the law of the 12. Tables for the avoiding of expences did prohibit, as likewise for the moderating of grief in the mourners, it did prohibit the use of this word *Lessum*, [ *Neve lessum funeris ergo habento* ] for that word was often ingeminated in their mourning as a doleful ejaculation, or note

of inward sorrow. This sorrowing or mourning was in some cases utterly prohibited, in others limited; <sup>m</sup> namely, an infant dying before he was three years old, should not be mourned for at all; because he had scarcely yet entered into this life. Elder persons were to be mourned for so many days as they were years old. Wives were permitted to mourn for their husbands (*Alexander addeth also children for their fathers*) ten moneths, if they would, within which time the widow could not marry another husband without infamy and discredit. *Polyd. de. Juven. l. 6. c. 9.* Here we may with *Revardus* observe a distinction between *Lugere* and *Elugere*; *Lugere* signifieth no more than to mourn some part of the time prescribed, *Elugere* to mourn the whole and full time.

<sup>m</sup> *Alex. Gen. dier. l. 3. c. 7.*



## LIB. II. SECT. III.

## Of the Roman Games.

## CAP. I.

*De Iudis Megalensibus.*

**T**He Playes usually exhibited by the Romans, may be divided into three sorts ; some were *Ludi sacri*, others *Honorarii*, others *Ludicri*. Those were termed *Sacri*, which were instituted immediately to the honour of the Gods : Such were these that follow in their several Chapters. *Megalenses Iudi*, they are called simply *Megalensia*, from the Greek word *μέγας*, signifying *Magnus*, because they were performed in the honour of *Cybille*, called *Magna mater* : of which I have spoken formerly, and there also discovered the manner of this feast. Only here take notice of that which is not mentioned there, namely, that these Games began *à pridie Nonas Aprilis*, i. e. on the fourth of *April*, and continued six days after : as appeareth by divers Authors, but more especially by *Ovid*, who could not easily be corrupted, *Ovid. Fast. lib. 4*. He haveing spoken of the rising of the *Pleiades*, which is on the second of *April*, addeth.

Ter

*Ter sine perpetuo calum veretur in axe,  
Ter jungat Titan, terque resolvat equos,  
Protinus inflexo Berecynbia tibia cornu  
Flabit, & Idea festa parentis erunt.*

This I note, that the error crept into *a* *Livy* may be *a* *Liv. lib. 29.* observed, who treating of the matter in hand, saith, *In adem vittoria, qua est in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies festus fuit: populus frequens dona Dea in Palatum tulit; Lictifernum, & Ludi fuere, Megalesia appellata.* That is, that these Playes were celebrated upon the twelfth of *April*. But in the judgement of many Expositors, we are to read *Pridie Nonas* for *Pridie Idus*. Moreover, servants might not be spectators here. And because the *Prætors* did frequent these sports in their purple and best robes, *b* hence grew that Proverb *Purpura Megalensis*. To the younger sort at this time, liberty was granted to counterfeit all mens gestures and speeches, without distinction of degree or age. *c* They were sometime termed *Ludi scenici*, though properly, *Ludi scenici* signified Stage-plays, and were performed in the honour of *Bacchus*.

*b* *Ant. Confl.*  
*in Ovid.*  
*Faft. 1. 4.*  
*c* *Jul. Scalig.*  
*Poet. 1. 1. c. 29.*

C A P. 2.  
*Ludi Cereales.*

**T**HAT these Games were performed in the honour of *Ceres*, is by none doubted. In them was represented by the *Roman* *Matrons*, *Ceres* her lamentation for her daughter *Proserpina*, taken away by *Pluto*; the *Roman* men beheld these plays in white gowns: the women performed the sacred and holy Rites in a white garment also. Among whom it was observed, that then they thought their service grateful to the Gods, when it was performed by those that were joyful, and free from all funeral pollutions. At this time there was a solemn going in procession, and carrying about their Gods in the *Cirque*, this solemnity was properly called *Pompa*.

*Cirem*

*Circns erat Pompa celeb̄r, numeroq; Deorum,  
Primaq; ventosq; palma petetur equis,  
Hic Cereris ludi, &c. Ovid. Fast. lib. 4.*

*d* Tert. de  
spect. c. 7.

The manner of this solemn shew, which, as I noted, was properly called *Pompa*, is described *d* thus by its particulars; that there was *Simulacrorum series, imaginum agmen, currus, thensa, armamaxa, sedes, corona, exuvia*, i.e. *First*, in this solemn procession were carried about the Images of the Gods. *Secondly*, the Images of well deserving men. *Thirdly*, Chariots led up and down for greater state and magnificence; unto this *Virgil* alludeth:

*Hic illius arma  
Hic currus fuit.*

*e* Vid. Franc.  
Jun. annot. in  
Ter. de spect.  
It. de tensis  
ul. Turneb.  
26, 27.  
*f* Herod. 17.

*Fourthly*, Pageants, so I interpret *Thensa*, which were so called *quasi tensa à tendendo*, as *e* *Ascanius* noteth, because they were carried up and down by the help of certain ropes, which to touch they counted a point of Religion. *Fifthly*, horse-litters, for that these *armamaxa* were not Chariots, or Waggons, appeareth by him, *f* *Qui ex currus in armamaxam deponebatur*. They seem to have been of a compounded form, in part like Chariots, called *equum*, in part like Wains, called *equus*, and thence *equum* hath its appellation, *equum inquit Phavorinus, οὐ πρότις οὐδὲν καθέδεται τοσούτην ἀρμάξα, διον ἀμα καὶ ἀρμάξα, οὐδὲ φράξα τι τοι οὐδὲν μετά οὐδέτις*. In which words, besides the Etymologie expressed, the use hereof is declared to be for the carriage of men. That as Chariots went empty for greater magnificence, and as in their Pageants were carried the *Simulachra Deorum*, according to that, *g* *Thensa Deorum vehiculum*: so in these Horse-litters were carried men; or rather that same *agmen imaginum*, which was the second particular. *Sixthly*, Chairs of State. *Seventhly*, Crowns. *Lastly*, Spoils taken from their enemies. These three last I take to have been used chiefly and principally in the *Romans* supplications, or publick thanksgivings for any great victory; the custome being in such shews, when they came to such and such remarkable

*~ Alex. ab  
Alex. l. 2. c. 32.*

remarkable places in the Cirque, to pitch a certain chair adorned with Crowns of Victories, and spoils taken from the enemy, reputing it not the least office, *b* thus to honour their Emperour, though absent, with the prerogative of such a Chair. Now in the preparation to this particular shew, we reade, that an egge was especially provided. It is observed by *i* many out of *Macrobius*, whose words; *Ovnmq; in Cerealis Pompa apparatu numerabatur primum*. The observation is general, but the reason thereof, *Inter arcana Cereris*, quite supprressed, and by none that ever I could meet with, yet explained: if my conjecture may satisfie in a matter so obscure, conceive it thus: These pompous shews were various, and in the honour of divers Gods, and accordingly the *Romans* made choice in every such solemnity, of some one principal thing in their shew, unto which the glory of the present solemnity should in a more especial manner belong. Thus in the *Pompa circensis*, which was celebrated in the honour of the *k* Sun, great horses were led up and down for greater state; *l Quia equis, & equestribus exercitamentis sol praesesse credebatur superstitione antiquissima*. Hence the Cirque-place it self was called *l Itero*, and *ixnodpouo*. After this same manner in this *Pompa Cerealis* (which was also sometimes called *Circensis*, from the place where it was exhibited) an egg was chiefly and principally provided: for seeing that under the name of *Ceres*, this solemnity was performed to the *Earth*, how could the *Earth* be more honoured, than by bearing about the Hieroglyphick of the whole World? as if they did intimate thereby, that even heaven it self was beholding to the *Earth*.

— *Pecori frondes alimentaq; mitia fruges*

*Humano generi, vobis quoq; i buram minifro. Ov. Met. l. 2.*  
And such an Hierolymphick *m Caelius Rhodiginus* proveth an egg to be, partly from its circular and globe-like form, partly from the matter whereof it consisteth; the hard shell resembling the solid earth; the more spiritu-

M

ous

*b* Vid. Isaac.  
Causab. in  
Sueton. Jul.  
c. 76.

*i* Hosq; de orig.  
fest. Rosin.  
*l*. 5. c. 14.  
Alex. ab  
Alex. l.c. 19.

*k* Solis honore  
novi grati spe-  
ctacula circi  
Antiqui san-  
xere patres.  
Corrip. Afric.  
*l*. l.c. 17. vid.  
Denup.  
*l* Franc. Jun.  
annor. in Ter.  
de spect. c. 8.

*m* Cael. Rhod.  
l. 27. c. 17.

ous part thereof, the air, the moist and liquid part, the water; the yolk, the element of fire; yea he noteth also, as there is *in mundo*, so likewise, *in ovo vis vitalis*, a kinde of quickning and enlivening power in both. Otherwise if this opinion give not content, we may interpret the carrying about of the egge, to be in the honour of *Castor* and *Pollux*: for as there were marks, or goals in the Cirque, some in the form of *Dolphins*, in the honour of *Neptune*; so were there others *in ovo vis vitalis*, marks of a long roundnes, in form of an egge, in memory of *Castor* and *Pollux*, which were *ovo editi*, according to that of *Horace*;

<sup>a</sup> Diod. 1. 49.  
<sup>b</sup> Tertul. de  
spect. c. 8.

*Ovo prognatus eodem. Hor. serm. 2. Sat. 1.*

For the same reason haply it was, that an egge was at this time carried up and down, as the chief and principal Ensign.

C A P. 3.  
*Ludi Florales.*

<sup>p</sup> Alex. ab Alex. <sup>1. 6. c. 8.</sup> **T**Hese games or sports were instituted in the honour of the Goddess *Flora*, that she being therewith appeased, the earth might bring forth flowers and fruits in great abundance. Of the Goddess it hath been spoken before. The time of the year when these sports were observed, <sup>p</sup> was upon the four last days of *April*, and the first of *May*, whence is that of *Ovid. Fast. 5.*

*Incipit Aprilis, transi in tempora Maiis;  
Alter te fugiens, cum venit alter, habet.*

The manner thereof was, that shameles strumpets did then run up and down the streets naked, using many lascivious and obscenœ gestures and speeches: they were called together by the sound of a Trumpet, unto which *Juvenal* alludeth,

*Dignissima prorsus  
Florali matrona tuba.*

Moreover, whereas in other games, Bores, Lions & Bears were

were publickly baited to recreate the spectators; here only Goats & Hares, and such milder beasts were excepted, because the Goddess *Flora* had not the custody of Woods and Forrests, where the wild beasts ranged, but Gardens and Meadows. At this time also Elephants were brought forth into the publick view of the people, which were taught *to walk on ropes*; and that there is an aptness in Elephants to go forward and backward on ropes, *f Pliny testifieth.*

*q Hosp. de orig. fest.*

*r Suet. in Gal.*

*f Plin. l. 8. c. 3.*

C A P. 4.  
*Ludi Martiales.*

**O**F these sports there is not much spoken: *t* they were observed upon the first of *August*, because on that day the Temple of *Mars* was consecrated. They were first instituted *u* by *Numa Pompilius*.

*u Tertul. de spect. c. 5.*

C A P. 5.  
*Ludi Apollinares.*

**T**HERE was an ancient Poet called *Martius*, *\** out of whose writings, as likewise out of the *Sybilline Oracles*, the Romans were admonished to dedicate certain Games to *Apollo*. At the first celebration of them, *x* it is reported, that a sudden and unexpected Invasion of Enemies inforced the Roman people to forsake their sports, and to betake themselves to weapons: in which time of their distraction, a Cloud of Darts and Arrows was seen to fall upon their Enemies, so that they presently returned Conquerors unto their sports, where *y* at their return they found one *C. Pomponius*, an old man, dancing to a Minstrel, and being very joyful, that their sports had been continued without interruption, they cried forth, *Salva res est, saltat senex*. Which speech afterward became proverbial, and is fitly used, when a sudden evil is seconded with a good event, beyond hope or expectation.

*\* Liv. lib: 5. dec. 3.*

*u Macrob. l. 1. Sact. 17.*

*y Suet. Pom. Fest. vid. Hosp. de orig.*

## C A P. 6.

*De Iudis Romanis, qui & magni, & Consulares, & Circenses dielli.*

**T**hese solemnities are sometimes called *Romani ludi*, because of their antiquity amongst the *Romans*, being first instituted by *Romulus*, sometimes *Magni ludi*, either because of the great charge and expence of money at that time, or because they were performed in the honour of their great God *a Neptune*, called also *Consus*, because he was reputed the God of secret *Counsels*, whence the solemnities themselves are sometimes called *Consualia*: whereas many of the *Roman* Temples, for certain mysterious significations, had their peculiar manner of building, *b Servius* noteth that the Temple in the great Cirque, dedicated to *Consus*, was covered, to signify that counsels must be secreted and concealed. Likewise for the same reason, *c* his Altar was made under the earth, not appearing in publique view, save only in the time of these solemnities exhibited. The chief ceremonies used at this time, consisted in the adorning of their horses and asses with garlands, wherein they thought that *Neptune* was honoured, who was the first author and inventor of horse-riding: hence *Neptune* himself is called *Iam* *Y*. This festival was first instituted by *Evander*, in the honour of *Neptune*, under the name of *Iam* *G*, and *e* thence the feast was called *Iam* *egor* *z*. Afterward it was renewed by *Romulus*, in the honour of *Neptune* likewise, but under the name of *Consus*, because *Romulus* needed a god of counsel to assist him in that designtment of his, for the violent taking away of so many *Sabine* women, as were taken away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other, but that upon the fame of these new sports, many *Sabine* women flocking thither to be spectators, his project might be the sooner effected. These and the cirque-shewes,

*a* Tert. de  
spect. c. 5.

*b* Serv. in Vir.  
Æn. 1.8.

*c* Alex. ab Alex.  
1.5. c. 26.

*d* Vid. Suid.

*e* Dion. Hal.  
lib. 1.

shews, so often mentioned in ancient Authors at first were all one, as appeareth by that of *f Valerius*. *Ad. id. f Val. Max.*  
*tempus circensi sp. Et aculo contenta erat civitas nostra. a. quod lib. cap. 4.*  
*primus Romulus, raptis virginibus Sabinis Consualium nomine celebravit.* Touching these cirque-shews, some are of opinion, that they were perform'd in the honour of *Ceres*, thus *Iulius Scaliger* *g* disliketh, and he is of opinion, they were celebrated in the honour of *Neptune*: others are of opinion they were instituted in the honour of the *Sun*. All opinions may be reconciled, if we understand first, those Authors who ascribe these cirque-shews to *Ceres*, to speak of the *Cereales Iudi*, which we read sometimes to be called *circenses*, because they were exhibited in the Cirque. Secondly if we distinguish the *Pompa circensis*, from the *Circenses Iudi*, and from the *Cereales Iudi*: The *Cereales Iudi* were instituted in the honour of *Ceres*, the *Circenses Iudi*, in the honour of *Neptune*; the *Circensis Pompa*, in the honour of the *Sun*. And furthermore for the full understanding hereof, we must know that the horses brought into the Cirque at this time, were of two sorts: some were only *nummos*, such as were led up and down for shew and state; I understand *Alex. ab Alex.* to speak of these horses, when he saith *b* horses were consecrated to the *Sun*: nay I understand those horses mentioned *2 King. 1. 3. c. 12.*

23. to have been of the like superstitious invention, where it is said that *Joshah* did put down the horses given to the *Sun* and the *chariots of the Sun*. That practice I say, hath neer affinity with this of the *Romans*, but I think it to have been originally derived to the people of *Judah*, from the *Persians*, who also accounted them holy to the *Sun*; and the *Persian king* when he would shew himself in great state, caused an exceeding great horse to be led up and down, which was called *Equis Solis*. Other horses were for exercise and race, we may call them *sequaces*: the institution of these I suppose to have been in the honour of *Neptune*. The prizes of masteries exercised in time of this cirque-shew were many; *fencing* and *M 3*

*i Ccel. Rhod.*  
*ant. 1. 8. c. 2.*

and that untill one of the combatants were killed in the place ; fighting with beasts ; wraftling, running of races on foot : jumping, and leaping, horse-racing ; sea-skirmishes exhibited in some river : coach-races, and fighting at whorlebats. Howsoever the nature and manner of these games are in some measure understood by the very name, yet a more large discourse concerning the two last, will be very behovewfull, for the more full understanding of the *Roman* history. These coach-races, when this manner of race was first instituted, were divided into two companies, which they termed, *Factiones albas & russas*, distinguishing each faction or company by the different colour of their <sup>k</sup> coats. Afterward they were divided into four companies, distinguished always by their colours, whence came that distinction, *Factiones Praesine, Veneta, Russata, Albata* : which colours may thus be englisched : the first signifieth a deep green : the next a kind of russet inclining to red : the third a Venice blew, or Turkey colour: and the last a perfect white. Of these <sup>l</sup> *Tertullian* speaketh as followeth, *Aurigis coloribus idolatria vestierunt, & ab initio dno soli fuerunt, albus & russens. Albus hyemi ob nives candidas : russens estati ob solis ruborem voti erant : sed postea tam voluptate, quam superstitione proiecta russenm alii Marti alii album Zephyrii consecraverunt : Praesinu vero terra matri, vel verno: Venetum caelo & mari, vel autumno.* As the Emperour, so the people sometimes favoured one faction or company, sometimes another : and accordingly as they favoured the company, they would lay wagers on their side, which wagers termed by

<sup>k</sup> Fen. Salm.  
in Pancir. c.  
de Circu.

<sup>l</sup> *Ter. de spect.*  
cap. 9.

<sup>m</sup> Turneb. ad.  
1.3 c. 4.

<sup>n</sup> Tertul. de  
spect. c. 16.  
• Suet. in  
Domitian. c. 7.

*Sponsiones* ; thus <sup>m</sup> *Turnebus* interpreteth *Tertullian*, where he saith, that the perple flockt to these races, sometimes for one reason, sometimes for another, but sometimes <sup>n</sup> *sponsionibus concitatus*, i.e. stirred up with a desire of betting, or laying wagers. To these four *o Domitian* in time added two other companies, the one wearing cloth of gold, the other of purple ; but these latter remained not long in use. Their fighting at whorlebats they

they termed *bellare cestu*. The manner of the fight conceive thus; the combatants had in each hand a strap of leather, with which each struck at the other (for we must know, that this kinde of fight succeeded fisticusses, and because in fisticusses the party striking, did by the blow as well hurt his own fist, as he did him that was stricken, hereupon they invented this other kinde of fight with lethern switches) these lethern switches they called *Cestus*, from the <sup>p</sup> Greek κεστος, signifying a belt or girdle; to make the fight more dangerous, they did in after-times tye pieces of Lead, or Iron, at the end of these lethern straps, so that they did with the force of the stroke, often dash out one anothers brains; and because by the weight of the Lead or Iron, the strap might chance to flye out of their hands, they caused each strap to be tyed fast to their arms and shoulders; neither was this without reason, for those Iron or Leaden pieces could not be but very weighty, being made in the bigness and <sup>q</sup> form of Rains Hornes. Lastly, these Cirque shews had their appellation *Circenses*, either from the great Cirque, or shew-place, called *Circus Max*: where the games were exhibited; or from the swords wherewith the players were environed, as one would say *Circa enses*. They much resembled those Grecian games called *certamina Olympia*, where the runners with Chariots were hemmed in on the one side with the running river, and on the other with swords pitched point-wise, that they should hold the race on directly, and not swerve aside without danger. \* Some have thought them to be the same with *Iudi Gymnici* so called from *judicis*, naked; because that those which did performe those kindes of exercises, did either put off all, or the greatest part of their cloaths, to the intent that they might the more readily and nimblly performe their games; for which purpose they did also anoint their bodies with oyle; whence we say, when a man hath lost his cost and labour, *Operam & aenum perdidit*; *olenum* in this place signifying cost and charges;

<sup>p</sup> Jul. Seb.  
lib. poet. c. 22.

<sup>q</sup> Aldus Ma-  
nut. l. 2.  
ep. 8. vid.  
Rosin. l. 5. c. 5.

\* Rosin. ant.  
l. 5. c. 5.

ges: so that the proverb was the same with that of the Coblers crow, *Opera & impensa periit.*

## C A P. 7.

## Ludi Capitolini, &amp; Agones Capitolini.

<sup>r</sup> Liv. dec. 1:  
& lib. 5.

<sup>f</sup> Suetonius in  
Domit. c. 4.

<sup>t</sup> Rosin. ant.  
l. 5. c. 18.

THE first institution of these games <sup>r</sup> *Livy* sheweth, where likewise he intimateth the reason, why they were called *Capitolini*, to have been in the honour of *Jupiter Capitolinus*; because he preserved the *Capitoll*, when it was assaulted by the *Gauls*. We must distinguish these games from those other shews called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi*, were exhibited yearly, <sup>f</sup> these *Agones* every first year: in those was celebrated the deliverance of the *Capitoll*: In these Rhetoricians, and Poets, and men of other professions contended for the victory: and hence <sup>t</sup> *Rosinus* thinketh the *Poets laureat* to have taken its beginning. He is likewise of opinion, that *Juvenal* alludeth unto these solemnities,

— *Sed cum fregit subsellia versu*

*Esurit intactam Paridi nisi vendat Agaven.* Sat. 7.  
Although the allusion may be granted, yet herein I think *Rosinus*, though otherwise learned, to have been mistaken, in interpreting *Fregit subsellia*, by *Non fuit*, *Excidit*, or *Non placuit*: as if the Poet of whom *Juvenal* speaketh, had been conquered at this time. In my opinion neither will the purpose of *Juvenal*, nor that phrase of speech admit that construction. Not the purpose of *Juvenal*; for the scope and drift of that Satyre, is to shew, that be the Poet never so pleasing, or let him give full satisfaction to the people, yet he shall receive no benefit thereby, but a vain and empty applause, so that he shall be compelled to sell those very Poems which are received with so general an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase: for *Frangere subsellia*, doth rather on the

the contrary, signify the vehement acclamation given by the people in approbation of the Poem, it being a poetical elegancy, to express the vehemency and greatness of the applause. <sup>u</sup> *Sidonius Apollinaris* useth the self same phrase, *Hunc olim perorantem, & rhetorica sedilia plansibili oratione frangentem, sacer eloquens ultro in familiam patriciam ascivit.* Neither is that of *Virgil* unlike:

*Et canu querula & trumpera arbusta cicada.*

Yea the *Grecians* used the same manner of speech <sup>x</sup> *καὶ τὴν γένην τοῦ θεοῦ τὸν τοῦ Κέρτου, καὶ τὸ Κεαυγῆν.* So that hereby I think that the Poet understandeth that *Grande sophos*, so often mentioned by *Martial*, it being a usual custom amongst the *Romans*, to signify the approbation of their *Orator* or *Poet*, by the loud acclamation of *Ceteris* or *ōρθοις*. Unto which *Horace* alludeth, *de arte poet.*

— *Clamabit enim pulchre, bene, recte.*

But to return whence we have digressed, these latter solemnities were of such note, that whereas the *Romans* formerly, made their computations of their greater year, called *Annus magnus*, by their *Infra*, <sup>y</sup> now they made it by their *Agones Capitolini*. Again we must distinguish these *Agones quinquennales* instituted by *Domitian*, from those *Ludi quinquennales* instituted by <sup>z</sup> *Augustus Cesar*, in memory of the victory which he got against *Antonius*, upon the promontory *Actium*, whence they were called, *Aetiaci Ludi*.

<sup>u</sup> *Sidon.* Ap. lib. 5. Epist. ad Sapand.

<sup>x</sup> Polyb. in hist. 15.

<sup>y</sup> *Hospin. de orig. fest.*

<sup>z</sup> *Sueton. Aug. cap. 18.*

### CAP. 8.

#### *De lundis secularibus.*

**A**uthors agree not upon the just period of time when these secular games were to be renewed: some are of opinion that they were to be celebrated every hundredth year; some every hundredth and ten, some once only in three hundred; but in this all agree, that they were named *seculares* from *seculum* which signifieth at least

<sup>a</sup> Resin. ant. <sup>b</sup> Pol. Virg. de invent. l. 8 c. 1. <sup>c</sup> Ovid. Trist. lib. 2. least an hundred years, *a seculum in centum annos extendit existimabant*; Because the full and compleat age of a man, might extend it self to the hundredth year, and seldom to any above an hundred: thence it was, that the form of words used by the publique cryer in pro-

claiming these games, was *b Venite ad Ludos quos nemo mortalium vidit, neque visum est.* Unto which <sup>c</sup> Ovid alludeth, *Trist. l. 2.* — *Carmina* —

*Passerat & Phaebo dico, quo tempore ludos  
Fecit, quos atas aspicit una semel.*

<sup>d</sup> Alex. ab Alex. l. 2. c. 30.

<sup>e</sup> Suet. Claud. cap. 21.

<sup>f</sup> Hof. de orig. fest.

But, the Emperours being ambitious of honour, and desirous to be spectatours of the games in time of their own raigne, they did often anticipate the time. *Claudius Cesar* amongst the rest, proclaimed them within a six-ty three years after *Augustus* had observed them, which occasioned the people to deride his cryer, inviteing the people to those shews and sports, which no man living either had seen, or should see again: because <sup>e</sup> some who were spectators nay actors in those solemnities exhibited by *Augustus*, lived at the same time when *Claudius* caused this to be proclaimed. These playes were also <sup>f</sup> called *Tarentini ludi*, not from the City *Tarentum* in great Greece; but from a certain place of the same name near *Rome*, adjoyning to the River *Tiber*. All the Theatres at this time were filled, and sacrifices offered throughout all the Temples, for the space of three days, and three nights, which giveth light to that of *Ausonius*,

*Trina Tarentino celebrata trinoctia ludo.*

The first day the Emperour and the *Quindecim-viri*, early in the morning ascended the *Capitol*, and there offered sacrifice according to the wonted manner: thence they departed to the Theatres, to perform solemn playes in the honour of *Apollo* and *Diana*. The second day the noble Matrons assembled together in the *Capitol*, they offered up supplications unto their Gods, they fasted and sung hymnes, in the honour of the Gods. The third day seven and twenty boyes, going along three and three,

three, and as many maids in like manner, all of them nobly descended, and having both father and mother alive, sung verses: in which they commended the *Roman State* to the protection of the immortal Gods. This was termed *Paeanas concinere*, which word *Paean*, though it signifieth primarily an hymne, or song of praise made to *Apollo*, who was called *Paean*, *g* from *μενος*, *a feriendo*, because of his victory gotten of the *Pythion*; yet *h* sometimes, and so in this place, it denoteth the praises in general of all the Gods. Again the phrase intimateth an elevation of the voice in singing with a kind of rising from one note to another. Thus *Turnebus* maketh *paeanis curv.*, and *curvulus* to be opposite, *i* *Videtur autem* *Paean contentionis vocem esse, ministris remissionis.* *Turneb. adv.* *lib. I. c. 12.*

## C A P. 9.

*De Iudis plebeis, compitalitis, Auguſtalibus, Palatinis,  
Tauris, & votivis.*

**O**ther Games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are these that follow: *Plebeii Iudi*, *k* which were celebrated in memory of the liberty procured to the *Roman state*, by the succession of *Consuls* in the place of Kings; or as others say, in memory of the reconciliation wrought between the *Senators* and the *Commonalty*, by reason of their great oppression at that time, when the *Commons* in a kind of mutiny departed to the *Aventine Mount*. 2. *Compitalitis Iudi*, so called because they were usually solemnized in *Compitis*, *i.e.* in the cross-ways, and open streets: *l* they were first ordained by *Servius Tullius*, in the honour of those Gods whom they called *Lares* in the memory of his nativity. The form of words used by the *Prator*, when he signified to the people the time of these solemnities, was as followeth: *m* *Macrob. l. 1. Satur.* *m* *Die noni post Calendas Januarii, Quinqueibus compitatis erunt.* Concerning which words, *Gellius* noteth, *n* *A. Gel. noct. At. I. 10. c. 24.* *l* *Plin. lib. 3. cap. ult.* *n* *MI*

*n*; *Prator dicit, non die nono, neq; Prator solum, sed plerag;*  
*omnis vetustus sic locuta est.* 3. *Augustales ludi*, performed  
 in the honour of *Augustus Caesar*. 4. *Palatini ludi*, so na-  
 med, because they were performed in the *Palatine* mount.  
 Some are of opinion that they were instituted in the  
 honour of *Julius Caesar*, others in the honour of *p. Au-*

*gustus*. 5. *Tauris ludi*, which received their name from  
*Taurus*, a bull; they were first ordained by *Tarquinius*

*superbus*, when there hapned a great pestilence amongst  
 the women with child, occasioned by much bull-flesh sold  
 unto the people, for the removal of which plague, these  
 games were instituted, in the honour of the infernal  
 Gods. They are sometimes also called *Boalia & Buperia*.

6. To those may be added their *Votivos ludos*, which were  
 also performed in the honour of some God, upon some  
 special vow made. For whensoever the *Romans* did un-  
 dertake any desperate war, then did some *Roman* Magi-  
 strate *Vovere ludos, vel templa*, conditionally that they got  
 the conquest: whiles the Magistrate uttered this his  
 vow, he was said *Vota nuncupare, or facere vota*, i. e. to  
 make a solemn vow unto the Gods; the vow being thus  
 made, he which made it did write it in paper, and with  
 wax fastened it to the knees of their Gods, thereby bind-  
 ing himself the more strongly to the performance; and  
 this in *Pliny* his phrase is *signare vota*: *Juvenal* termeth  
 it, *Gemma incurrare deorum*, *Sat. 10*.

After this he was said to be *Votis reus*, i. e. conditionally  
 bound and obliged to the performance thereof, so that  
 the Gods might challenge the thing vowed as due debt,  
 if they granted his request, yea after that the thing cra-  
 ved had been obtained, then was he said, *Damnatus voti*,  
*vel voto* (i. e.) simply bound to the performance of the  
 vow, so that by consequence, *Damnari voti, vel voto*, is to  
 have ones desire accomplished. Thus have we gone over  
 the chief and principal games which were merely *sacri*,  
 tending to Religion: the second sort were *Ludi honorar-*  
*vii*, of which in the next Chapter.

Turneb. adve.  
*l. 1. c. 37.*

C A P. 10.  
*De Gladiatoria.*

Such sports and plays which were performed by private men upon their own purse and charges, they seeking thereby to wind themselves into the affections of the common people, and to make way for their own preferment and honour, were termed *a Ludi honorarii* ; and howsoever any game or shew might be tendered unto the people in this respect, yet those of this nature were for the most part either *fencing* or *stage-plays* ; *fencing*, because the sight thereof was so often freely bestow'd upon the people, is therefore many times denoted by the Latine word *b Manus* ; and those that bestow these fights, are for the same reason termed *Munerarii*. The first original of this fencing and sword-playing, to the killing of one another, hath been derived from a customary practice among the heathens, at the burials of their friends, who were perswaded that the shedding of mans blood would be a propitiatory for the soul deceased ; hence would they buy captives and slaves, purposelly to be sacrificed at burials : afterwards that this wicked spectacle might be the more pleasant and delightful, they changed their sacrifice into a fencing with art, where the combatants did fight for their lives. This particular kind of *Fencers* were called *Bustuarii*, from *Bustum*, the place where dead mens bodies were burned : but ambition and cruelty made these bloody spectacles in after-ages more frequent, insomuch that prizes at last were plaid not only at the Tombs, but in divers other places, as the *Cirque* and *Amphitheatre*, &c. yea they were given as legacies by will and testament unto the people. These prizes have continued many dayes together, and the number of the combatants sometimes exceeded number. At the first none would thus hazzard their lives but captives, and fugitive servants which were enforced

*a* Isaac Caufa-  
bon in Suet.  
Aug. 32.

*b* Lips. Sat.  
1. 1. c. 7.

*c* Tertul. It.  
Servius in  
Eneid. 10.

thereto, being bought for that purpose; afterward those that were free-born suffered themselves to be hired, for which cause they were termed *Auctorati*, hirelings; <sup>d</sup> yea noble men themselves sometimes by reason of their decayed estates, sometimes to demerit the Emperour his love, endangered their lives in this fight. Those that were hired, bound themselves by a solemn oath to fight unto death, or else they would yield their bodies to be whipt, yea and to be burnt, unto which <sup>e</sup> Horace alludeth;

*Quid res fert; ubi, virgù ferroq; necari?*

*Auctoratus eas, an turpi clausus in area?*

The manner of this bloody spectacle was thus: The Master, or exhibitor thereof, did by a publick bill give notice unto the people, what day the prize shoulde be performed, how many couples were to combat, what their names, &c. thereby to procure the greater expectation, and concourse of people; of this speaketh <sup>f</sup> Sueton, *Muimus populo pronunciavimus in filia memoriam.* <sup>g</sup> Yea they did in tables hanged in publick view, paint and represent not only the description of the place, but also the very form and gesture of the fencers:

— *velut si*

*Revera pugnent, feriant videntq; moventes*

*Arma viri. Horat. lib. 2. Sat. 7.*

Upon the day appointed when all met, then were the weapons brought forth, and those were of two sorts: *Lusoria*, or *Exercitoria tela*, such as were the spear and wands, or cudgels, that they might toss the one, and fence with the other, and shew their feats of activity, all being but preparations to that more solemn and dangerous fight ensuing. The Greeks called them *τροχαιαντα* *άνορνα*, because of the little balls tied at the sharp end of the Weapons to prevent dangers. Other were <sup>h</sup> *Decretoria tela*, so called, *Quia hoc velut decreto Pratoris*, five *Editoris* dabantur. These were those, with which they really encountréd each other for life or death, and therefore sometimes they are called *Pugnatoria*: *Seneca* speaketh

<sup>b</sup> Lips. Sat. 1. 2.  
<sup>c</sup> 19.

<sup>i</sup> Sen. epist. 117.

eth of both, *Remove ista lusoria arma, decretoriis opus est.* And that the Apostle doth not allude to both, I dare gainsay, *1 Cor. 9.26,27.* where he saith, *επει τοις πάντοις εἰς αἴρειν την διατροφανταζούσαν τὸ σώμα.* He did not beat the air, and flourish with those lusorous and preparatory weapons, but he did truly fight against his natural corruption, to the wounding and subduing of it, for so καταίσθια signifieth *putrified wounds.* That phrase of *Seneca's* alluding to the fore-flourishings, is not much unlike, *Aliud est ventilare, aliud pugnare.* This fore-skirmish with cudgels was properly termed *præludium*: *Micara* speaking of *Hercules* his conquest over the two Serpents, assaulting him being yet an Infant, saith, *m Præludis Hydra*, i.e. the combat was but the prologue, preface, or introduction to that greater which should ensue between him and the *Hydra*. Afterwards when they betook themselves to naked Weapons and to a real fight, then were they said *Decimare ad certum*, and *Verbis armis pugnare.* This word *n Verbis* being put for *Transmutatis*. In the act of fighting, they did frame and compose their body according to the rules of their art, for the better warding of themselves, and the readier wounding of their adversary. This frame & posture of the body, was by a peculiar name called *Status*, or *Gradus*; whence arose those elegant Metaphors, *Cedere de gradu, demigrare de gradu*; to change ones purpose, and as it were to draw back from what he formerly intended. In like manner we say, *De mentis status deicitur*, or *deturbatur*: he is driven to change his mind, or in general, he is amazed. In the conflict, oftentimes the sword-players after they had received any dangerous wounds, laid down the Weapons, which though in extremity was a token of cowardise, neither were they thereupon acquitted or discharged: but this depended upon the consent either of the Emperour, or the people, or the Master of the shew. This discharge was properly called *Missio*. Such was the cruelty of those times, that many prizes were proclaimed, wherein they fore-signified,

<sup>¶</sup> Suid. in voce  
στάσις.

<sup>l</sup> Sen. 1.3. cont.

<sup>m</sup> Sen. Herc.  
fur. vers. 221.

<sup>n</sup> Lips. Sat. 1.2.  
cap. 19.

Suet. Aug. 49.

ed, that such discharges should neither be craved, nor granted: whereupon ~~o~~ *Augustus Caesar* made a decree, wherein *Gladiatores sine missione ediprohibuit*. Those combatants that overcame, received by way of reward, sometimes money, sometimes a garland, or coronet of Palm-tree, wound about with certain wollen ribbands called *Lemnisci*; the coronet it self was therefore called *p Palma lemniscata*, and hence figuratively hath *Palma* been translated to signifie the victory it self, and such a man as hath often got the prize, we say proverbially, that he is *Plurimarum palmarum homo*. The reason why the Palm-tree, rather than any other tree, should be given in token of victory, is rendred by *q* divers approved Authors to be this: because the Palm-tree, though you put never so ponderous and heavy weight upon it, yet it will not yield, but rather endeavour the more upward. Sometime the reward given by the people was one of those Wands or Cudgels used in the fore-skirmish. That Wand was properly called *Rudis*, and it was given in token of liberty, signifying thereby, that he should thence forward lead his life free from shedding of blood: alluding to which custom, this word *r Rudis* hath been used to signifie any other kinde of freedom or discharge; Whereupon *Horace* said of himself, that he was *Rude donatus*, i.e. discharged from his pains in Poetry. Lastly, sometimes he that conquered received *Pileum*, a Cap. And here it will not be amiss, to note the difference between *Palma*, *Missio*, *Rudis*, and *Pileum*. *Palma* was only a token of victory, not of liberty, or discharge. *Missio* was not a full discharge, but a kinde of vacation, or respite granted upon request, untill the morrow, or some other time: again it was granted to those that were conquered, not to the conquerors. *Rudis* was a token of a full discharge from bloody combats, whereby a mans life might be endangered: but yet with this distinction, that if it were bestowed upon free Citizens, hired to be actors in these masteries, then were they thereby restored to their freedom

*q* Arist. prob.  
*7.* Plut. Symp.  
*8. q. 4. A.*  
*Gol. l. 3. c. 6.*

*r* Erat. adag.  
*Rudem accip.*

dom also, which formerly they forfeited by undertaking such base conditions : to other which were formerly servants, or captives, it was only a token of liberty and discharge. Notwithstanding, sometimes upon favour such servants or captives obtained together with their discharge from such fights, a privilege also of enfranchisement, whereby they were thenceforward incorporated among free Citizens ; the token hereof was *Pileus*, for then they received a Cap ; which latter observation helpeth for the understanding of *Tertullian*, where he saith, *Quis insigniori cuicunque homicida leonem poscit, idem gladiatori atrociter patet nondem, & pileum premium conferat.* In which speech the unjust and unreasonable practise of those heathens is displayed, whiles they judge a man-slayer to be exposed to Lions and wilde beasts, and yet notwithstanding will reward the bloodiness of sword-players. These fencers fought with divers manner of Weapons, and accordingly had several names, the chief of which we reade are these : 1. *Retiarii*, so called from *reti jaculum*, signifying a float-net used in fishing, because this sort of Fencers did fight with a cast-net in one hand, to catch and claspe about their adversaries head ; and a three forked engine in the other, which they used in stead of a sword : of this *Juvenal* speaketh, *Sat. 8.*

*Tertul. de  
spect. c. 21.*

*Movet ecce tridentem.*

They did always fight in their coats : whence the Epitheton floweth, *retiarii tunicati*. The reason why they bore up and down Sponges, which *Tertullian* calleth *spomgia retiariorum*, may be for the drying up of the blood, and wiping or stopping of the wounds : which use of sponges, *Pliny* noteth. Now because these *Retiarii* were so lightly armed, they were compelled every time they strook with their net, to retire back until they recovered their net again ; and hence the second sort of fencers which fought with them, were termed *Secutores, ab inseguendo*, from following and pursuing these *Retiarii*. The weapons wherewith these *Secutores*

*Plin. lib. 34.  
cap. 11.*

*u. Lips. Sat. 1.2.  
cap. 7.*

teres did fight, were a target, to keep off the net of the adversary, a sword and an helmet. 3 *Tibraces*, so called from the *Tibacian Weapons* which they used; their target was round and little, called *Parma*: it was at first

\* Turneb. adv. in use among the \* *Tibacians*, and afterward so proper lib. 5. c. 10. to this sort of sword-players, that *Parma* signifies such a one as favoured this company or faction of x Suet. in Fencers. Their sword was a crooked falchion, termed Domit. c. 10. by them *Sica*. The *Roman* souldiers did use to wear two y Alex. ab A- of these, a long one on the left side, and a shorter on the lex. 1. c. 22. right side, answerable to our sword and dagger, but the form of the *Sica* was always crooked, according to that,

*Sica* θεραπεύει τον τιμωρούντα. Privy murthurers practising the killing of men, may seem to have used the lesser, as a pocket-dagger; such are those *Sicarii*, of which there is such often mention in *Tully*. 4. *Myrmillones*, they are sometimes called *Galli*, because they were appointed after the manner of the *Gauls*. Their Weapons were a sword, a target, an helmet with a crest in form of a fish.

5. *Hoplomachi*, the name imports them to be armed in their fight, it is derived from the Greek ὅπλα νέα ἡραρά  
arma, & ἀνθετα: untill *Augustus* his time they were named *Samarites*; their armour was an helmet with a tuft on the crest, a sword, a shield, and a boot on the left leg.

6. *Provocatores*, sometimes called *Probaatores*, these usually fought with the *Hoplomachi*; their armour was a sword, a target, an helmet, and boots on both legs. For as the footmen among the Souldiers, so likewise some of the sword-players used boots, for the safe-guard of their

\* Veget. Vide Lips. de milit. L. 3. dia. 7. amongst the Grecians in war, that boots alone are oftentimes put to express the Grecians whole armature, as appeareth by that useful Epitheton in *Homer*, ἀνθετα, 'Ανθετοι i. e. Bene accreati Graci; these boots they wore sometimes on both legs, sometimes on one, according as the manner of fight required. 7. *Essedarii*, such as fought one against another out of waggons, so called from *Esser-  
dum*,

dum, a waggon or chariot. 8. *Andabarii*, quasi *adabari* ascensores, because they did fight on horse-back, or out of chariots. This sort of fencers did fight winking, whence ariseth that adage, *Andabatarum more pugnare*, the phrase is fitly used, when two ignorant persons are hot in contention about that which neither understandeth. 9. *Dimacharii*, called also *Orbela*; they fought each against the other, with two swords apiece, as the first name importeth. 10. *Laquearii*, such as fought with swords and halters, the use of the halters was the same as the *Retiarii* made of their nets, to cast about their adversaries neck or arm, that they might the easier wound them with their sword. Of all these sorts of fencers I *Lippsius* <sup>l. Lipf. Sat. 2.</sup> treateth largely, to whom I refer the Reader. Only here let him take notice, that it was in the power of the people, to discharge any of these Combatants in time of the fight, which discharge they signified *premendo pollicem*, by holding down their thumb, or else to adjudge him to continue the fight, though in never so great danger, and this latter they signified *conversendo pollicem*, by turning up the thumb;

*Et verso pollice vulgi*

*Quemlibet occidans poplulariter.* — *Propri. Sat. 3.*

Moreover, that there might be alwaies in readines a sufficient number of sword-players, hence were there schools erected, into which captives, fugitive servans, and notorious offenders, were sometimes condemned, sometimes sold. The masters of these schools were called *Lanista*, the scholars or under-fencers, trained up there for more publick or dangerous fights, were called *Familia*. The word *Familia* is often taken in this sens<sup>e</sup>, to signify the whole company of under-fencers, belonging to one school, and the Master of defence, is for this reason, more than once by <sup>m</sup> Sueton called *Pater familias*. Moreover, when one challenged another to these combats, they signified their challenge by beckning with their little finger. *Hirane* alludeth unto this:

<sup>m</sup> Suet. Ca-  
lig. 26. It. in  
Domit. 10.

*Crispius minimo me provocat, accipere si vis,  
Accipe jam tabulas.* Lib. 3. Serm. 4.

\* Alex. ab  
Alex. 1. 4. c. 26.

This must be understood of a beckning, and that with the little finger ; for otherwise in time of the fight, if either of the combatants did hold up his finger, \* he signified thereby that he did yield, and give place unto his adversary ; some think that *Persons* had respect unto this custom, in that phrase,

— *Digatum exere, peccau.* Sat. 5.

C A P. 31.

*De ludi Scenici.*

\* Lazio de  
Repub. Rom.  
L. 10. c. 11.

† Alex. Gen.  
dier. 1. 6. c. 19.

**T**He second sort of Plays bestowed on the people for their favour, were *Ludi Scenici*, Stage-plays. The reason of this name *scena* may be seen before. \* The first institution of them was occasioned by reason of a great sickness, which by no medicinary help could be removed ; The Romans superstitiously conceiting, that some new games or sports being found out, the wrath of the Gods would thereby be unarmed. † Whereupon, about the four hundredth year after the building of *Rome*, they sent for certain stage-players out of *Hetruria*, which they called *Histriones*, from the *Hetrurian* word *Hister*, which signifieth such a player. *Quia Hister Thrusco verbo ludus appellatur, ad nomen Histrionibus est additum.* Polydor. de invent. l. 3. c. 13. Concerning the divers kinds of stage-plays, I read of four called by the Grecians, *Mimica*, *Satyre*, *Tragœdia*, *Comœdia* ; by the Romans, *Planipedes*, *Asellana*, *Proæstata*, *Tabernaria*, in English, *Fable*, *Mimical*, *Satyrical*, *Tragical*, *Comical*. These *Mimic* players did much resemble the Clown in many of our English stage-plays, who sometimes would go a tip-toe in derision of the mincing dames ; sometimes would speak full mouthed to mock the country clowns ; sometimes upon the tip of their tongue to scoff the Citizen. And thus, by the imitation of all ridiculous gestures or speeches, in all kinds

kinds of vocations, they provoked laughter ; whence both the plays and players were named *Mimi*, from *μίμος* an imitator, or one that doth ape-like counterfeit others ; as likewise they were called *Planipides*, because the Actors did enter upon the stage *planis pedibus*, i.e. <sup>a</sup> *Excalceatis*, barefooted. The second sort of plays were called *Satyræ*, <sup>a</sup> from the lascivious and wanton country Gods called *Satyri*, because the Actors in the *Satyrical* plays did use many obscene poems, and unchaste gestures, to delight their spectators. Afterward these kind of Actors, as me may conjecture, did assume such liberty unto themselves, that they did freely and without controlment, sharply tax and censure the vices even of Kings as well as of the Commons, insomuch that now we call every witty Poem, wherein the wit and manners of men are sharply taxed, *A Satyre*, or *Satyrical Poem*. b *Satyræ mordax fuit & saluum genus carminis*. These plays were also called *Attellane*, from the City *Attella* in *Campania*, where they were often acted. The third sort of stage-plays were called *Tragœdia*, from *τράγος* a Goat, and *ῳδή*, an Ode or Song, because the Actors thereof had a Goat given them as a reward. And likewise they were called *Prætextæ* from *prætexta*, a certain Roman robe, which these Actors did use to wear in their plays. The fourth sort were *Comœdia*, from *κῶνις* which signifieth villages, and *ῳδή*, because those kind of Actors did go up and down the country, acting those *Comedies* in the villages as they passed along. They were likewise called *Tabernarie*, *atabulis*, i. e. from the boards or pentices wherewith they were sheltered from the weather whiles they were acting. These two last sort of plays, namely, *Tragedies* and *Comedies*, being still in use among us, it will be worth our labour to consider the communities, wherein they agree ; otherwise the properties or notes of distinction by which they differ. I find three sorts of parts, wherein they agree, namely *partes primariae, accessoria, circumstantes* ; parts principal, accessory, and circumstances,

<sup>a</sup> Alex. ib.

<sup>a</sup> Ante sign in  
suis obser. de  
metris comicis  
Teren. præfixis.

<sup>b</sup> Vid. Eras.  
adag.  
Komedias  
οὐρεῖσι

stances, which are not so truly parts, as accidental ornaments added to beautifie the plays. The principal parts are four in respect of the matters treated of ; for as far as the declaration or exposition of the matter in hand reacheth, without intimation of the event to ensue, so far reacheth the first part called *explanans*, which word signifieth no more than a proposition or declaration. But when the play inclineth to its heat and trouble, then ensueth the second part called *entusiasmos*, which signifieth the intention or exaggeration of matter. The third part is called *exagrasum*, i. e. the state and full vigour of the play. The last part which is an unexpected change into a sudden tranquillity and quietnes, is called *exanthesen*; which by a metaphor hath been translated to signifie the end or period of any other thing, or rather the inclination unto the end, as *vita humana catastropha*, the end of a mans life. In respect of the players forsaking the stage, the parts were five, namely the five **Acts**. For the **Actors** did five times in every **Comedy** and **Tragedy** forsake the stage, and make as it were so many interruptions. The occasion whereof is supposed to have been this, that the spectators might not be wearied out with a continued discourse or action, but that they might sometimes be delighted with variety intermixed. For those breaches and chasmes between each **Act**, were made up and supplied, either by the *Chorus*, or *Musick*. Where we must note, that every **Tragedy** and **Comedy** must have five *Actus* and no more, according to that of *Horace*:

*Neve minor quinto, nec sit produntior actus*  
*Fabula,* —

Again we must remember, that it is not necessary that the *repartus* should alwaies be contained in the first **Act**, though many times it happeneth so ; for in *Plautini his Bragging Soldier*, the *Protaſis* is found in the second **Act** ; and so likewise are the other three parts, i.e. *Epitaxis*, *Cataſtasis*, and *Cataſtropha*, their bounds unbounded.

These

These Acts are divided into several Scenes, which sometimes fall out more, sometimes fewer in every act. The definition of a Scene being *Mutatio personarum*: whence we call a subtile *Gnatho*, which can humour himself to all persons and times, *Omnium scenarum homo*, a man fit for all parts. Now among the Romans it was thought unfit, that above three persons should come on the stage in one Scene.

c Vid. Eras.  
Adag.

— *Nec quarta loqui persona laborat.* Hor.  
The *partes accessoria* in a *Comedy* are four: *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the *Comedy*. The second is the *Prologue*; which is either *verbalis*, such as doth open the state of the Fable, at which time there needeth no argument; or else *verbis*, such as commendeth the Fable, or the Poet unto the people; or lastly *avaseris*, such as shall refute the objections and cavils of adversaries. The third is *Chorus*, which speaketh between each *Act*; and this *Chorus* may consist either of one, or many speakers, and that either male or female; but with this caution, that if a male be to be commended, then must the *Chorus* consist of males: if a female be to be commended, then must it consist of females. And always whatsoever the *Chorus* speaketh, it must be pertinent to the *Act* past, or covertly intimating somewhat ensuing.

p Suet. Aug. j  
c. 40.

— *Non quid medios, intercincat actus,*

*Quod non proposito conducat & heret apte.* Hor.

It may seem sometimes that in the midst of the Play some other sport was interposed, as hunting, or fencing, or such like, to delight the spectators with the greater variety: whence *Hor.*

*Si discordet eques, media inter carmina poscunt*

*Aut ursum, aut pugiles.* —

These interposed varieties were denoted by the name of *Diludia*; *Displacet iste locus, clamo, & Diludia poscas.* Hor. The fourth and last accessory part was *Mimus*, the Clown or Fool of the Play. Of all these parts a *Tragedy* hath only

only a *Chorus*. The *partes circumstantes*, or accidental ornaments, were four, common to both, *Titulus, Cantus, Saltatio, Apparatus*, i. e. the Title of the Play, Musick, Dancing, and the beautifying of the Scene. By the Scene in this place, I understand the partition between the Players vestry, and the stage or scaffold. This partition at the acting of a Tragedy was underpopped with stately columns and pillars, and beautified with paintings resembling princely buildings, and the Images as well of Gods as Kings. At the acting of a Comedy, countrey cottages and private buildings were painted in the out-face of the partition. In the *Satyrical* Plays the painting was overrun with shadows of mountains and woods :

e Alex. Gen.  
dier. l. 5. c. 16.

f Antesig. in.  
suis obſerv.  
metris comicis  
Terent. pra-  
fixis.

The first of these partitions they called *Scenam Tragicam*, the second *Comicam*, the third *Satyricam*. The differences between a *Tragedy* and a *Comedy*, -which may be collected out of f *Antesignanus*, are these : first in respect of the matter, becaule a *Tragedy* treateth of exilements, murthers, matters of grief, &c. a *Comedy* of love-toyes, merry fictions, and pretty matters, the one being *δυνατόν*; the other *εύκαλπον*. In a *Tragedy* the greatest part of the Actors are Kings and noble persons; in a *Comedy* private persons of meaner state and condition. The subject of a *Comedy* is often feigned, but of a *Tragedy* it is commonly true, and once really performed. The beginning of a *Tragedy* is calm and quiet, the end fearful and turbulent; but in a *Comedy* commonly the beginning is turbulent, and the end calm. Another difference which *Antesignanus* hath omitted, is behovful for us to know, namely, that the *Tragedians* did wear upon the stage a certain shoe, coming half way up the leg in manner of buskins, which kind of shoe was called by them *Cothurnus*, and from that custom it hath been occasioned, that *Cothurnus* is translated to signifie a *Tragical* and lofty style, as *Sophocles digna Cothurno*, matters beseeming *Sophocles* his style; and sometimes a *Tragedy* it self. The *Comedians* did use an high shoe coming up above

Nigris medium  
impedit crus  
Pellibus.  
Horat. Ser. l. 1.  
Sat. 6.

above the ankle, much like a kind of shoes which plowmen use to wear to keep themselves out of the dirt. This kind of shoe is called *Socci*, by which word sometimes is signified a Comedy, as

*Hunc socci sepe pedem grandeſſo Cothurnis.* Hor.  
g All these sorts of stage-plays, both *Mimical*, *Satyrical*, *Tragical* and *Comical*, if they were acted according to the Grecian rite and custom, then were they called *Palliate*, from *Pallium*, a certain mantle which the Grecians did use to wear; if according to the Roman manner, then were they called from the Roman gown *Togate*.

C A P. 12.  
*De Trojano Iudo, sive Troja.*

IT was a custom among the Romans, sometimes in the year to have a general muster of the younger sort, who meeting in the Cirque, exercised there running, racing, riding at tilt, and other such like feats of activity, whereby they might be trained up for their better service in the war. They chose a Captain, one or other of noble birth: he was called *a Princeps juventutis*. They divided themselves into distinct companies, sometimes marching forward, one against another, sometimes retiring backward, sometimes skirmishing, sometimes im-battelling themselves in one form, sometimes in another, as if it were a true field pitcht. A large and full description hereof we have in *Virg. Aen. 5.* This game was called *Trojanus Iudus*, or simply *d Troja*, without the addition of any other word, because *Ascanius*, *Aeneas* his son, first brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place.

*Hunc morem, cursus, arg, bac certamina primus  
Ascanius, longam muris cum cingeret Albam,  
Resulit, & priscos docuit celebrare Latinos.*

Among other sports used at this time, <sup>e</sup> there was also a kind of Morisk-dance, wherein the younger men dan-

<sup>a</sup> Hosp. de orig.  
fest.

<sup>b</sup> A de scd. A  
a sp. A  
<sup>c</sup> d Suet. in  
Jul. c. 39.

<sup>e</sup> Alex. ab A-  
lex. l. 6. c. 19.

ced in harness, after a war-like manner, being thereby trained to exercise all parts of their body, by sundry gestures, as well to avoid all venues and defend themselves, as to annoy and offend the enemy. This kinde of dance is generally called *Pyrrhica saltatio*, because it was invented by *f Pyrrhus*.

*f Plin. l. 7. c. 56.* *g Serv. in. l. 5.*  
*h En. It. Alex.*  
*ab Alex. loco.*  
*supra c. tato.*

*b Suet. in*  
*Neron. c. 11.*  
*i Cœl Rhod.*  
*l. 19. c. 12.*  
*k Rosin. Rom.*  
*ant. 5. c. 32.*

Yea, *g* some say, that *Suetonius* taketh *Trojanus ludus*, and this *Pyrrhica saltatio*, for one and the same thing. Nay *Alexander* confoundeth both these, with those other games termed *juvenilei ludi*. But doubtless *b reis* he was mistaken, for those *juvenilei* were instituted by *b Nero* at the shaving of his beard, and had not their name, because young men were the chief actors, but because old men would now by the practice of youthful sports, turn young again. The actions at this time were so far from favouring of military discipline, that on the contrary, they were for the most part effeminate and wanton.

## CAP. 10.

*De tessera, talis, & Latrunculis.*

*g. 1. 1. 1. 1. 1. 1.*

*o Alex. ab A-*  
*lex. l. 4. c. 2.*

*p Suet. Aug.*  
*6. 40.*

**B**efore we treat of the game called *Ludus tessera*, it will not be amiss, i. to clear the word *tessera* from all ambiguity. The word hath four remarkable significations, all alluding to matters of antiquity. First it signified a watch-word among the soldiers in the camp, whereby they discerned their enemies, or spies, from their own fellows. *o Alex. ab Alexandro* giveth many examples hereof: *Augustus Cœsar* in his camp gave for his watch-word *Venus genetrix*; *Pompeius magnum* gave for his, *Hercules invictus*, &c., and this was called *Tessera militare*. Secondly, There was *Tessera frumentaria*, a certain ticket or token given by the Magistrate unto the poor, at the tending whereof, *p* at the beginning of every moneth, certain doles and measures of corn were given; it is evident that at first there were such monethly distributions of corn, even by that endeavour of *Augustus*

*Augustus*, who for the avoiding of trouble, would have reduced all to three set distributions in the year; but prevailed not; sometimes instead of corn, or haply over and above the corn, there were at certain times, doles of money given to the poor, which dole whosoever received, tendered his token or bill of exchange, termed *Tessera nummaria*; these two last acceptations, though they may be distinguished, yet because they both tended to the relief of the poor, I have joyned them together. 3. There was *Tessera hospitialis*, a certain token of wood, or such like matter, which usually was cut in two by those who had engaged themselves mutually to entertain each other, whensoever entertainment should be craved; yea this wooden ticker or tally being mutually accepted, it was lawfull for their posterity bringing this token, to challenge hospitality. Thus he in *Plantus* having formerly used *Antidomus* as his host, after *Antidomus* his death, he cometh unto *Antidomus* his adopted son, not doubting of entertainment, for saith he, *Densis hospitalem, ac tessera mōnum ferō*. Hence from this custom, or tendering a token when hospitality should be craved, that adage hath been derived, *Tessera hospitii confregit*, i.e. he hath broken the league of hospitality. Lastly, *Tessera significat a Dye*: where we must note that the word *Alea*, which commonly is translated a Dye, is a general word, applied equally both to the *Tessera* and the *Tali*, to denote the uncertainty of both games. *Tessera* properly signifieth a Dye; *Tali*, an buckle-bone, such wherewith children play *Cock*.<sup>it</sup> In determining the several chances in these plays, Authors are not only diverse, but in many things contrary each to other, neither can any certainty be gathered from their writings; whether my conjectures, drawn from comparing their several and contrary writings, may give light for the right understanding of decayed knowledge herein, I shall willingly submit my self to the censure of the judicious. The several chances which I read of are these, some

<sup>a</sup> Suid. in vo-  
ec κόστρ.

<sup>a</sup> Turneb. adv.  
l. 5. c. 6.

<sup>b</sup> Turn. adv.  
lib. 6. c. 10.

<sup>c</sup> Cœl. Rhod.  
l. 10. c. 17.

<sup>d</sup> Cœl. Rhod.  
lib. 20. c. 18.  
<sup>e</sup> Turn. adv.  
lib. 5. c. 6.

some arising from the number of the points of the Dye, as *Senio*, *Monas*. More usually among the Grecians, <sup>q</sup> these two were termed *Kοδη*, & *χιος* ο διαδεκτος κοδη, i.e. *Chins*, answered our *Ace*: *Cons* our *Sise*. And this is confirmed by a proverb in use amongst the Grecians: *Kοδη* πεποιησθαι, which the learned interpret to be, a comparison of unequal, a Pygmie with a Giant: others named from the number I read not of. Perhaps they played not with a single Dye, but with three, as we use in *Passage*, whence their chances might have their name, not from the number of points in each several Dye, but from them all being cast. But that the *Tessera* had points in them, appeareth by the testimony of a *Turnebus*: And hence *Numeris* is sometimes used for *Tessera*;

*Seniudet numerosq; manus tibi aburnos.*

*Ovid. 7. de Art. amand.*

That they used more *Tali* in their plays, than they did *Tessera*, <sup>b</sup> *Turnebus* observeth from that verse,

*Non sum talorum numero par tessera. Mart. 14. epig. 15.*

<sup>c</sup> *Cælius Rhodius* speaketh more distinctly, saying that in their play they used three *Tessera*, but for *Tali*. These *Tali* were sometimes called *Vulturis*, as appeareth by the same <sup>d</sup> *Rhodius*, and likewise *Reguli*. The reason of both is rendered by *Turnebus*, he being of opinion that these *Tali* had not points in them as the *Tessera*, saith, *pro numeris effigies animalium babebant, ut vulnus, aut regulorum*. That they were termed *Vulturis*, is probable by that of *Plautus*,

*Tace parumpyx, jacit vulturis quas nos, latrabo.*

*Plant. cœnæl. Act. 2. Sc. 3.*

But that the Cock-all-bones should be called *Reguli*, is somewhat doubt, for no question but *Regulus* and *Basilicus* in this place signified one and the same thing, the one being the *Larix*, the other the Greek word, now *Basilicus*, as shall presently appear, signified the whole chance. So confused are the opinions of authors here-

in,

in, that to assign the reason for every chance's name, or to reduce every chance determinately either to the *Tessera* or the *Tali*, I think it impossible. Only some may be thus reduced, and in general we may conceive probably which chances were fortunate, which unfortunate. The unfortunate chance in the *Tali*, was commonly called *Canis*, or *Caniculi*, or *Chius*. The most fortunate chance, *Venus* or *Basilicus*. f Lipsius taketh them both for one, and that not without ground, if we compare *Horace* and *Plautus*; both of them treating of that old custom of throwing these Cock-all-bones at their feasts, for the choice of their *Modiperator*, or master of the feast, which should prescribe laws for drinking to the whole company. f Lips. antiqu. lect. 1.3. c. 12.

*Venus arbitrium* —

*Dicit bibendi.* Saith *Horace*.

*Facto Basilicum, propino magnum poculum.*

Saith *Plaut. curcul.* And why may not this cast be justly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the Grecians not only called *συντονικός*, but also *βασιλεὺς King, Prince, or chief commander at the table?* This cast was then thought to be thrown, when all four Cock-all-bones appeared not one like the other, but all with different faces. g Venus consurgebat ex talis quarum jactatis, ubi diversam omnes offendissent faciem; with whom accordeth h Turnebus; Venus erat, cum nullus eodem vulnusbat talus. Hercules was also a lucky throw, but whether the same as Venus, I have not yet learned. g Cœl. Rhod. l. 20. c. 27.

The games with the *Tessera*, I make no question were divers: the ignorance of which, they being long since out of use, hath caused much obscurity in this matter: one game there may seem to have been in use, where the just number of eight seemeth to have been the chief Cast, it was called i *Stesichorus jactus*, or *Stesichorius numerus*; The reason is rendered by *Rhodiginus*, because *Stesichorus* his tomb, erected at great charges for greater

ter magnificence, *Ex octonis confabat omnibus*, i. e. consisted of many eights; to wit, eight angles, or corners: eight columns: eight steps, or greces. In their common game, the most fortunate throw is thought to have been *Sices*; we call it in *P. Stage*, a *Royal Pass*, whence it was commonly called *Senio*;

— *Quid dexter senio ferre*  
*Scire erat in votis, damno: a canicula quantum*  
*Redderet, angusta collo non fallier orca.* Pers. Sat. 3.

Which one place of *Perfus* giveth light to this in three things. First, that the winning cast was termed *Senio*: and if you make *Basilicus* a term common both to Dice and Cock-all-bones, as *Venus* is, we may fitly render it a *Royal Pass*. Secondly, the losing cast, *Canis* or *Canicula* in English a *Dog-chance*. Thirdly, the manner of their play, both in their Dice and Cock-all-bones, was by casting them not immediately out of their hand, but out of a dish or narrow mouth'd vessel, that there might be fair play, without striking or cogging the Dye: this vessel *Perfus* calleth *Orca*, and describeth to have a narrow mouth, and a straight neck. *Horace* applieth it to the *Tali*, Satyr. 1.7.

*Mitteret in Pyrgum talos* —

Calling it *Pyrgus*, using the Greek word πύργος a Tower or Steeple, so called from πύρ fire, because the form thereof being *acuminata*, resemblmeth the rising of fire: the word intimateth *Horace* his *Pyrgus* to have been of the like form with *Perfus* his *Orca*. But to return to the game, the chief cast as I said was thought to be when three *Sices* appeared: which opinion is strengthened by that common proverb, *Ant tres sex, ant tres tifera*; i. e. either three *Sices*, or three *Aces*. And the first of these being the best, the other the worst chance in the Dice, the proverb implieth thus much, I will put all to the hazard, I will win or lose all. This cast was also called *Midas*: for as *Thodorus* speaketh, *In tesserrario Iudo-Midas jactus*:

*Jaetus erat fortunatissimus*; with whom accordeth  
k Dempster, proving it out of *Snidas*:

*Mihi est ea xulam inuaditum* ¶ Dempster.  
Rom. l. 5. c. 1.

*Midas in tesserae consultor optimus.*

This name signifieth the belt chance, yet was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chance of the *Tali*. Likewise from that of *Mart. l. 13. 1.*

*Senio nec nostrum cum cane quassabat.*

It is noted by *l. Erasmus*, that as often as an *Ace* hapned to be thrown together with a *Sice*, so that *Senio* and *Caniscula* appeared together at one throw, it was a losing cast. *Suetonius* is clear in the proof hereof, if for *Aut* we substitute *Et*, which unless we do, it will be a matter of great difficulty, to make congruity of sense. His words are, *Talis enim jactaris, ut quisque Canem aut Senionem miscerat in singulos talos, singulus denarios in medium conferebat, quos tollebat universos qui Venerem jacerat.* Turn *Aut* into *Et*, the sense is obvious. Look who threw an *Ace* and *Sice* together, for every Dye he staked and laid to stake a *Denere*: which he took up and swooped all clean, whose luck it was to throw *Venus*. *Enripius*, as I take it, was not a chance, but a kinde of game, much resembling that which is in use with us, called *one and thirty*: The number of that game was *fourty*, and the game called *Enripius*, because *Enripius* was one of the fourty chief Governors in *Athens*, when the thirty Tyrants were deposed. The reasoun of my conjecture is taken from *n Rhodius*, whose words are these, *Enripius numerum continet quadragenarium, quoniam videtur annis fuisse Enripius praefectorum quadraginta, post triginta Tyrannos Athenis exaltos*: from all we may note, that the *Jaetus pronus*, or *Jaetus plenus*, that is, the lucky cast, we may English it *Take all*, was commonly called *Senio*; *Venus*, *Canis*; the *Jaetus spinus*, or *Jaetus inanis*, was likewise commonly known by no other name than *Canis*, *Canicula*, or *Chius*, we may English it *Blank*.

*Some*

*n Rhodius.*  
*l. 20. c. 17.*

<sup>o</sup> Barthol.  
Merula in  
Ovid. de art.  
amand. l. 2.

<sup>p</sup> Lipſ. Sat. l. 2.  
cap. 20.

<sup>q</sup> Suet. Aug. 72.

<sup>r</sup> Quint. l. 5.  
cap. 14.

<sup>f</sup> Plaut: mil.  
glor. Act. 1.  
lcc. 1.

Some have delivered their mind touching these plays thus: that the *Tali* or Cock-all-bones had but four faces or sides, and therefore yielded four chances, and no more; the first is called *Canis*, or *Canicula*, answering to our *Ace*, and it was the worst of all; the opposite unto it they term *Venus*, or *Cous*, and is accounted the best: *Merula* against sense understandeth the number of seven by it; it may stand for our *Sice*. The third bore the name of *Chius*, proportioned to *Trey* with us; and the last *Senio*, which is as much as *Quatre*. For in these *Tali* there is no chance of *Deausr*, or *Cinque*. This opinion at first I confess seemed plausible to me, but how fully it discovereth the game, and how agreeable it is to antiquity, let others judge. The chances of the Dice, or Cock-all-bones, as they were termed *Factus* & *Missus*, casts: so also were they called *p. Manus*, figuratively, as every stroke in the fencing-school was termed *Manus*. The first acceptance of *Manus* is proved out of *q. Suetonius*, where *Augustus Caesar* speaketh thus, *Si quas manus remisi cuiusq; excisissim, aut retinuisse quod cuique donavi, vicissim, &c.* If I had exacted those chances which I remitted every one, and kept that which I bestowed, I had gotten, &c. The second acceptance of *Manus* is confirmed by *r. Quintilian*, who calleth the second, third, and fourth strokes in fencing, *secundas, tertias, & quartas manus*. Our English phrase is not much unlike; he hath had a good or bad, lucky or unlucky, hand. Another game there was of like nature played with Table-men: the word *Latrunculus* translated a table-man, did properly signify an hired Souldier, such a one as served for pay: whence *Latro*, whose diminutive *Latrunculus* is, hath his denomination *uno & xxiarij a serviendo*. In this sense the word is used by *f. Plantus*:

*Nam Rex Seleucus me opere opavit Maximo,  
Ut sibi latrones cogarem, & conscriberem.*

Secondly, because Souldiers are so prone and apt to commit robberies: hence *Latro*, and *Latrunculus*, hath been used

used also to signify a thief or robber. And thirdly, in a borrowed sense, these words are applied to signify table-men or chess-men; because this form hath the express form and representation of a war, or battel, fought between two armies; Insomuch tha <sup>t</sup> *Pyrrhus* King of *Epyre*, being skilful in plotting stratagems, first taught his souldiers that art of projecting, by plays and representations thereof in the table-men. <sup>u</sup> Some are of opinion, that it was first invented in the siege of *Troy*, by *Palamedes*, who that he might keep his souldiers in better order, allowed them this kind of recreation, whence these chess-men are sometimes called *Palamediaci calculi*: they were made sometimes of wax, sometimes of glass, sometimes of other matter. The game seemeth to be the very same with that which we call *Chess*. Other games there were of lesser note for recreation, of which sort were principally these that follow; *Petanrum*, *Discus*, *Pila*, *Trochus*, *Nunces*, <sup>m̄m̄p̄</sup>, from whence this Latine word *Petanrum* cometh, signifying properly a perch or pole, on which poultry roust: and hence the rope or staff on which light persons were wont to dance, and try masteries, was termed *Petanrum*. It signified also a certain hoop, or wheel, through which active persons would run swiftly, their body so warily carried, that in their running they would not touch the hoop or wheel: to this purpose *Alex. Neop.* speaketh, *Fuit a quoq; Petanri ludus admirationis praeципue, cum per circulos quipiam velociter cursu transvolat, corpore ita librato, ut circulum non offendat.* Such tumblers as were practised in this kind of activity, were thence cal'd *Petanrista*. *Discus* was a round stone in manner of a bowl, sometimes made of iron, or bras, whosoever could cast it farthest got the victory; the players thereat were called *Discoboloi* from *discos* & *βάλλειν* to dart, or cast out any thing. *Pila* signifieth a ball, and of it there were divers sorts. 1. *Harpastum*; which we may English a *Foot-ball*. <sup>b</sup> This ball being put down in the middle, two young men strove who should

<sup>t</sup> *Donat. in Teren. Eun. Act. 4. sc. 7. ad illud, I-dem hoc jam Pyrrhus facta-vit.*  
<sup>u</sup> *Suid. in voce τάβλαι*

<sup>a</sup> *Alex ab. A-lex. l. 4. c. 21.*

<sup>b</sup> *Alex ab. Alex. ibid.*

drive it thorow the other goal. 2. *Pila*, which signified a distinct kind of ball, so called from the hair with which it was stuffed. 3. *Follis*, a light kind of ball, so called because it was stuffed with a bladder; with this old men and young children played. 4. *Paganica*, this had his name *a pagis*, from villages and country towns, where it was chiefly in use, it was stuffed with feathers; of all these *Mart. 14.45.*

*Hac qua difficultis turgent paganica pluma  
Folle minus laxa est, & minus arcta pila.*

5. *Trigonalis*, and this I think both the *Pila* and the *Follis* were called, in opposition to *Paganica*; the reason of the name is taken from the form of the Tennis-courts, which because they were three-square, in manner of a triangle, *c* hence was the ball with which they played in such courts termed *Trigonalis*. The players themselves were termed *fatores*; those that did cast the ball into the court, were called simply *datores*; and *d* hence *data-tim ludere*, is to play at ball, or else we may imagine the reason of this to be, because such as in their play by negligence did let down the ball, did *suram dare*, hold out their leg, to have the ball flung at it. *Trochus*, it signifieth a top: as it was commonly called *Trochus* from *τριχω* to run: because of the swiftness thereof: and likewise *Turbo* in Latine for the same reason; so sometimes it was called *buxum*, from the matter whereof it was made, as

— *Buxum torquere flagello. Pers. Sat. 3.*

*Nuces*, with nuts they had many plays, some of which are at this day in use. One holding an uncertain number of nuts in his hand, his fellow that plaid with him was to divine whether the number was *Even* or *Odd*. This *Horace* calleth

*Ludere par impar* —

The Grecians *εύα* & *ηλύα*. Of this *Ovid de nuce*,  
*Eft etiam, par sit numerus qui dicat an impar:*  
*Ut divinatus auferat angur opes.*

Sometimes

Sometimes they piled their nuts, three beneath, and one on the top, in manner of a Castle : of this *Ovid* speaketh likewise.

*Quatuor in nucibus non amplius aleator a est,  
Cum sibi suppositis additur una tribus.*

Yea, these nut-games were so many, and so peculiar to children, that striplings growing into mans estate, were still reputed children, untill they forsook these nut sports; whence *nucibus* reliefis sounds as much as childishnes being past : and this is thought to be the reason, why the e bride-man, as soon as he was married, used to cast nuts among the people ; intimating thereby a farewell to such childish pastimes. Many other childish games they had, among which one resemblmeth our *Cross and pile*; f they termed it *Capita vel navim*; because the coyn which they fillipped or tossed into the air, bore stamped on the one side *Janus* his two faces, on the other side a ship.

e Rosin. ant.  
Rom. I. 5. c. 27.

f Anton. Con-  
stant. in Ov.  
Fast. I. 1.

C A P. 14.

*De mensis & convivis Romanorum.*

**B**EFORE we proceed to the description of the Roman tables, we will explain those five terms, *uentaculum*, *Prandium*, *Merenda*, *Cæna*, & *Commessatio*. Which five words do signify the five several feedings each day, which children, old men, labourers, travellors, and such like, did usually observe; for others of healthier and stronger constitution did commonly eat but one meal, at the most but two in the day. *Ventaculum* signifieth their break-fast, and it had its name, like as our English hath, *à jejunio*, from fasting: In former times it was called *à filatum*, from *Sile*, the name of a certain herb, with the root whereof they were wont to season that wine, which they had at break-feast: for as *b Plutarch* saith, their break-fast was nothing but a sop dipped in wine. In the same place he likewise saith, that in old time they had no dinner, but that which we call *Prandium*

Rosin. ant.  
I. 5. c. 27.

b Plut. in sym.  
I. 8. q. 6.

was the same with them as *Tentaculum*, and thus much the Greek word *ἀριστ* signifying a dinner, doth intimate, it being so called, *quasi* *ἀριστ*, from *ἀριστ*, which signifieth the morning. The name *Prandium*, which we render a dinner, was so said *quasi* *μεσημέριον*, signifying Noon-tide, or Mid-day. The third time of taking meat, was called *Merenda*, we may english it our afternoons beaver; it was called also *Anticanum*, because it was taken a little before supper. *c Merenda est cibis, qui de- clinante die sumitur, quasi post meridiem edendus, & pro- xime cœna; unde & antecanum à quibusdam dicitur.* The fourth time was their supper; called *cœna, quasi vespere*, which signifieth as much as *Common*, *d quia antiquitus seorsim solebant prandere Romani, cœnare cum amicis.* Their fifth and last time of feeding, was called in Latine *Com- messatio* by some, by most *Comessatio, à comedendo.* *e Jo- annes Tristinus* saith, that it is a beaver taken after supper, or a night drinking. But the chief feast, whereat they *f* gave entertainment, being their supper, we will consider three things therein. First, *accumbendi vel dis- cumbendi rationem*, that is, the manner of their lying at supper (for they did neither stand, not sit at table, as we do) secondly, the form and fashion of their table; and lastly the parts of their supper. The place where they supped, was commonly called *Canaculum à cœna*, as our *dining chamber* is so called from our *dinner*. It was also called *Triclinium*, or *Biclinium*, from *κλίνειν* a bed; for sometimes there were 3. beds, sometimes but 2. about the table, upon which the guests did sit, or rather lie along. In this dining Parlour was placed a table, sometimes made quite round, and for the common sort of people it was made of ordinary wood, standing upon three feet; but for men of better rank, it was made of better timber, inlaid sometimes with wood of divers colours, sometimes with silver, and it stood upon one whole entire foot, made of Ivory, in form of a great Lion or Leopard, &c. Unto the meaneer sort of these tables *Horace* alludeth;

*e* Just. Lips.  
cent. 1. ep. 65.

*d* Plut. Sym.  
1.8. q. 6.

*e* In orat. pro  
M. Cælio.

*f* Lazius do-  
repub. Rom.  
1.3. c. 3.

— Medo

— *Medo st mibi mensa tripes.* Hor. Ser. 13.  
Unto the other, *Funer. Sat. 11. ver. 122.*

— *patere videntur*

*Unguentataq; Rose, latos nisi sustinet orbes*

*Grande ebni, & magno sublimis pardus hiatus.*

Sometimes this table was made in the form of a half Moon, the one part thereof being cut in with an arch or semi-circle, and then it was called *Sigma*, because it did much resemble the letter *Sigma*, g which as it appeareth by certain marble monuments, was in old time made like a Roman C. Hence is that of *Mart. lib. 14. 87.*

*g Rom. ant.  
1.3.c.28.*

*Accipe lunata scriptum testudine Sigma.*

If any man should demand the reason, why they cut their table in that form, I must confess I have not read any reason in any author bearing shew of a probability. My conjecture is this; it is agreed upon by most Authors, that in the round tables the one quarter was reserved void from guests, that the waiters might have a convenient room to attend: thereupon it stemeth not improbable unto me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been translated diversly by divers writers, as it appeareth by *Lipsius* in the fore-quoted place. By some it hath been taken for the Parlour, or supping chamber, so *Lipsius* in his Antiquities; by others for the supper or feast it self: so *Caelius*. By *Lipsius* since it hath been thought a certain place, erected in the manner of a semi-circle, or half Moon, against which they did place one continued bed, able to take six or seven guests. But *Brodens* and *Distmarns*, in my opinion have more truly taken it for the table it self. About the table that was perfectly round, were placed three beds, covered with tapestry, or some other kind of covering, according to the wealth and ability of the person, and thus

— *Strato discumbitur offro:*

The beds being ready furnished, the guests lie down in manner as followeth. Each bed contained three persons,

sons, sometimes four, seldom or never more, except at their great and more solemn feasts. If one only lay upon the bed, then he rested the upper part of his body upon his left elbow, the lower part lying at length upon the bed; but if many lay upon the bed, then the uppermost did lie at the beds head, laying his feet behind the second his back; the second rested his head in the others bosom, having a cushion put between, laying his feet behind the third's back: in like manner the third and fourth did lie. The number of the

b A.Gell.nost.  
Art.l.13 c.13.  
Tribus aut  
novem mis-  
centur cyathis  
pocula com-  
modis, qui  
musas amat  
impare, T  
Ternos tercya-  
thos attonus  
petet Vates,  
tres prohibet  
supra Rixatum  
metuens tan-  
gere Gratia  
Nudis juncta  
fororibus.  
Hor. carm.l.3.  
Od. 19.  
Alex. Gen.  
dier.l.5.c.12.  
¶ Stukius de  
cov.l.4.c.2.

¶ Terent. in  
Heautont.

guests was not great, seldom times exceeding nine: whence *A. Gellius* saith, that the number of the guests should begin with the *Graces*, and end with the *Muses*, that is, they must not be fewer than three, nor more than nine. This also hath been the reason of that adage, *Septem convivium, novem convitum faciunt*. *Heiogabalus* seemeth to have been delighted with the number of eight, & whence he invited to supper *octo calvos, octo luscios, octo podagrosos, octo surdos, octo raukos, octo insigniter nigros, octo insigniter longos, octo præpingnes, & octo nasutos, delectans illo Graco proverbio, a morto.* Those that were not invited, but came of their own accord unto a feast without bidding, by *Plantus* they are called *Musæ*, flies: by others they are called *Umbrae*, shadows. Hence is that of *Horace*, *Locus est & pluribus umbribus.*

The party which invited the guests, sometimes expressed his earnestness by pulling and haling one by the cloak: whence *Stukius* observeth, that when they would shew how earnestly they were invited, they would say *Penulam mihi scidit*, He tore my cloak of my shoulder. Again on the other side, when they would shew how easily the guest was intreated, they would say, *Illus ego vix tetigi penulam, tamen remansit*. Before the guests sat down, their shoes were usually pluck'd off, that they might not foul the bed on which they did lie; *et dominos huius mundi*.

*Accurrunt servi, soleas detrahunt,  
Video alios festinare lectos sternere, cœnam parare.*

<sup>m</sup> They likewise did gird their heads with fillets and <sup>m</sup> Cœl. Rhod. hair-laces, as often as they intended to drink more <sup>lib. 27. c. 26.</sup> than ordinary, thereby to prevent the vapours, which otherwise would annoy the head : for which reaſon, they did likewise <sup>n</sup> use garlands of Ivy, and Myrtle-tree, and Roses : the coolness of which comforted the brain. These garlands were also *Symbolum plen libertatis*, a token of their full liberty. The Carver in these feasts was called from his artificial setting and ordering the dishes upon the table, *Struitor* : and from his artificial carving and cutting up of the dish, *Carpor*. *Tryphans*, as appeareth by *Juven. Sat. 11.* was famous for his skill in carving : he did set up a school, teaching such as came unto him by rules and precepts : and also shewing them the manner of carving : which that he might the better do, he furnished a table with several dishes of meat, formed and fashioned with wood, with a dull knife shewing his scholars after what manner, and with what gesture of their body they should cut up this or that dish. This supper because of the wooden dishes of meat, was called *Cœna ulmea*. They divided their supper usually into three parts, which they termed their first, second, and third course. In the first course commonly was served mulberries, lettices, sausages, and always *Eggs* : as likewise in the last course ( whether the second or third ) were served nuts, figs, grapes, but always *Apples* : <sup>p</sup> whence we say proverbially, *Ab ovo ad mala*, from the beginning of the feast to the end : or simply from the beginning of any thing to the end thereof. The middle course was the main supper, and the chief dish thereof was called *Capsicœna* : In *Lippius* his phrase it is called <sup>q</sup> *Fundus & fundamentum cœna*. Their first mēls they called the *proæmium* ; the last the <sup>q</sup> *Stuc. 1. 3.* <sup>de conviv.</sup> *epilogue* : which because it consisted so much of sweet and delicious meats, hence did they apply that unto the

<sup>o</sup> Stuc. de conviv. 1. 3. c. 3.

<sup>p</sup> Pancirol.lib.  
rer. deperdit.  
cap. de cibī  
capiendi modo.

<sup>q</sup> Stuc. 1. 3.  
de conviv.

Turneb. obv.  
1.5. c. 10.

the second course, *ad hunc casum deponitae Cœpūtūgū, Secunda cogitationes sunt sapientiores.* If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta*, or *Cœna dubia*: *Recta* in this place signifieth as much as *vera*: thus *spōds* among the Grecians sometimes signifieth *verus & sincerus*. The phrase intimateth that it was a true supper, opposed to that dole of meat distributed by Princes to the people, which from the panyer or basket in which it was brought, was called *spōtula*; sometimes they distributed money in stead of meat, this also was named *spōtula*: so that *spōtula* denoted any kind of dole either of meat or money, which as often as it was given in lieu of a supper, it was opposed to *cœna recta*. Yea sometimes by *spōtula* we may understand a light and short supper.

*Promissa est nobis spōtula, recta data.* Martial.  
The reason why a great feast should be termed *Cœna dubia*, is, becaule in such variety of dishes the guest is many times doubtful of which to begin. Contrary to this is *cœna ambulatoria*, a supper where one dish walketh through the table.



## LIB. III. SECT. I.

## Of the Roman Assemblies.

*De Comitiis.*

Iherunto have we insisted upon the description of the most remarkable parts of the *Roman City*, together with the several divisions of the *Roman People*, as also the *Roman Religion*; where we have seen the general division of their Gods, and their sacrifices, with their ceremonies thereunto belonging, and likewise of the *Roman Games* both greater and less. Now we are to proceed to that part of Government, which is Political or Civil: where we will first speak of their Assemblies, called *Comitia*, then of their Civil Magistrates, afterwards of their Punishments, and lastly of so many of their Civil Laws, as I have observed needful for the understanding of *Tully*, and that principally in his Orations. For the more easie conceiving of all which, I have prefixed one Chapter of the *Roman year*, treating there of the *Calends*, *Ides* and *Nones*, the knowledge of which is needful for that which followeth.

## C A P. 1.

## De Anno &amp; partibus ejus.

Inasmuch as there cannot be a full knowledge of the Roman Assemblies, without some general understanding of the Roman year, and the general distinctions of the Roman days, it cannot be but worth our labour in this short Chapter briefly to consider what may be spoken therein. This word *Annum* is so called *quasi Annulus*, because as the Greek word ἔτος significeth εἰς τὸ έτον, i.e. in se converitur annus; which was the reason, why the Egyptians in their mystical Cyphers ( called *littera hieroglyphica* ) did use the picture of a Serpent, having his tail in his mouth, to signify a year. The time or space of this year hath been diverse, according to the diversity of nations. <sup>a</sup> Some allowed no more days to a year, than we do to a moneth: whence that monethly space which the Latines call *Mensis*, from <sup>b</sup> μεν, signifying the Moon, they called *Annum Lunarem*. Some allowed four moneths, some six moneths, some ten. And thus *Romulus* measured his year, counting the moneths either from the number of our fingers, or from the time that a woman goeth with childe, or from the time that a widow mourned for her husbands death, or lastly from the multiplication of unities, which in a simple number doth not exceed ten.

<sup>10</sup> *Quod sat is est utero matris dum prodeat infans,*

*Hoc anno statuit temporis esse satum.*

*Per totidem menses à funero coniugis uxor*

*Sustinet in vidua trifilia signa domo.* Ovid. Fast. I. 1.

*Annum erat, decimum cum Luna recepisset orbem.*

*Hic numerus magno runc in honore fuit;*

*Seu quia tot digesti per quos numerare solemus,*

*Seu quia bis quino fæmina mensa parit,*

*Seu quod ad usq; decem numero crescente venimus,*

*Principium spatii sumitur inde novus.* Ovid. Fast. I. 3.

Thus

### Of the Roman Year.

Thus *Romulus* his year contained of moneths ten; of days 304. But after this *Numa* added two months.

*At Numa nec Janum, nec avitas praterit umbras,*

*Mensibus antiquis addidit ille duos.* Ovid. lib. I. Fast.

*Numa*, <sup>c</sup> or as some say, *Tarquinius Priscus*, perceiving that the moneths did not alwayes fall out alike every year, but sometimes the same moneth would happen in the summer, sometimes in the winter, thereupon after long study and many instructions from the *Grecians*, finding the reason of this confusedness, he added unto *Romulus* his year fifty days, so that the whole year afterwards was divided into 12. moneths, because the Moon had finished her course 12. times in that space, beginning their year then at *January*, because then in his judgement was the fittest time to begin the year, when the Sun being farthest from us, did begin to turn his course, and to come unto us again; which is about *January*, the Sun being about the *Tropick of Capricorn*. Afterward upon a superstitious conceit of the odd number, *Numa* added one day more unto *January*, so that whereas at the first *Numa* his year did agree with the *Grecian* year, both of them containing 354. days, now the *Roman* year contained 355. days, which computation falling out too short for the true year by the space of ten days, and six hours yearly, it occasioned every eighth year, in the interposition of three whole moneths, which they called their leap-year. <sup>d</sup> This confusednes afterward *Julius Cesar* by long study remedied, adding the odd ten days unto *Numa Pompilius* his year. And lest the odd six hours might at last breed disorder in their computation, he appointed, that every fourth year one whole day should be inserted, next after the three and twentieth of *February*; which inserting they called *Intercalatio*, from an old verb *Intercalo*, and that day they called *Intercalarem*: Now the day following being the four and twentieth of *February*, was always the sixth of the *Kalends of March*, <sup>e</sup> and therefore because of the interpo-

<sup>c</sup> Vid. Georg. Metul. in orat. pro Q. Ligario.

<sup>d</sup> G. Merul. in orat. pro Q. Ligario.

<sup>e</sup> G. Merul. in orat. pro Q. Ligario.

sition of that day, they called the leap-year *Annum bisextilem*, that is, the year wherin there falled out two days which they called *Sext. Cal. Martii*. And the day thus interposed was called *dies bisextus*. This computation, which *Julius Caesar* found out, we have imbraced, and do at this day follow, calling our year *Annum Iulianum*, <sup>f</sup> and *Annum magnum*, having relation to the monthly year called *Annus Lunaris*; and sometimes this great year is called *Annus vertens, à versendo*, because it is always turning, and running on. \* Moreover we must remember, that the *Romans* did begin their year at March; whence that moneth, which since hath been called *Julius*, in the honour of *Julius Caesar*, was by them called *Quintilis*, because it was the fifth moneth: and that moneth which since hath been called *Augustus*, in the remembrance of *Augustus Caesar*, was by them called *Sextilis*, because it was the sixth moneth. Thus then the great year being divided into 12. moneths, every moneth was divided into three parts i.e. *Calendas, Nonas* and *Idus*: The *Calends* were so proper unto the *Romans*, that <sup>g</sup> *Augustus Caesar*, when he purposed never to do what he was requested, was wont by way of Proverb to say, that he would do it *Ad Calendas Grecas*, that is to say in our English Proverb, *At latter Lammas, never*. For the better understanding of which, I shall insert three common verses,

*Principium mensis nostri dixere Calendas:*

*Sex Menses Nonas, October, Julius, & Mars,*

*Quatuor et reliqui: tenet Idus quilibet octo.*

That is, the first day of every moneth is called the *Calends* of that moneth. The 2, 3, 4, 5, 6, and 7. of these four moneths, May, October, July, and March, were called the *Nones* of that moneth: but in all the other moneths the *Nones* contained but the 2, 3, 4, and 5. day: so that the 5. day (for example sake) of Januar: was called *Nonas Januaria*, or *Januarii*: the 4. *Pridie Nonarum*, or *Nonas Jan:* (for they used always to say *Pridie Cal: Pridie No-*

<sup>f</sup> Rosin. ant.  
Rom. lib. 4.

\* Hubert. 1. 3.  
ep. fam. 18.

<sup>g</sup> Suet. Octa.  
Aug. c. 87.

nar : and *Pride Iduum*, instead of *secundo Cal. Non. Id.*) The third day of January they called *tertium Nonarum*, *vel Nonas Januar*; the second day of January they called *quartum Nonarum*, *vel Nonas Januar*: After the Nones followed the Ides, which contained eight days in every moneth, so that the 15. day of the four aforesaid moneths was called *Idus Maii*, *Idus Octob.* *Idus Julii*, and *Idus Martii*. In all the other moneths, the 13. day was the Ides: as to proceed in January, the 13. day was called *Idus Januar*; the 12. *Pridie Iduum*, *vel Idus Januar*. the 11. *tertio Iduum*, or *Idus Jan.* the 10. *quarto Iduum*, *vel Idus Jan.* the ninth, 5. *Id. Jan.* the eighth, 6. *Id. Jan.* the seventh, 7. *Id. Jan.* the sixth, 8: *Id. Jan.* After the Ides then followed the Kalends of the next moneth. As the 14. of January was *decimo nono Calendarum*, or *Calendas Februar.* the 15. *decimo octavo Calendarum*, or the 16. *decimo septimo Cal. Feb. &c.* Where we must note, that as often as we use *Pridie*, *tertio*, *quarto*, or any of those numerals with an accusative case, as *Pridie Calendas*, &c. the Grammarians say that this præposition *Ante* is eclipsed. Again, every moneth had in its compass three great markets, which because they were observed every ninth day were called *Nundinae*, and the latter of them being the greatest is called by *Athenaeus* *trinundinaria*, which we may render *Trinundinum*, or *Trinum nundinum*. It followeth now that I should treat of the days, which are the lesser parts of the year: where before we proceed, we will consider the parts which the Romans divided their day into.

*Lucem,*  
cujus  
partes  
sunt

*Dies Civilis consistet*

*Noctem,*  
cujus  
partes  
sunt

<i>Diluculum.</i>	The break of day.
<i>Mane.</i>	The full morning.
<i>Ad meridiem.</i>	The fore-noon.
<i>Meridies: quasi Medius dies,</i>	Mid-day, or
<i>quasi Merus dies,</i>	Perfect day, noon.
<i>De Meridie.</i>	After noon.
<i>Solis occasus.</i>	Sun setting.
<i>Crepusculum.</i>	The Dusk of the evening.
<i>Prima fax.</i>	Candle tinding.
<i>Vesper.</i>	The night.
<i>Concubium.</i>	Bed-time.
<i>Nox intempesta.</i>	The first sleep.
<i>Ad medium noctem.</i>	Towards mid-night.
<i>Media nox.</i>	Mid-night.
<i>De media nocte.</i>	A little after mid-night.
<i>Gallicinium.</i>	Cock-crowing.
<i>Canticinium.</i>	All the time from Cock-crowing to the break of day.

The day and night again were each of them divided into *primam, secundam, tertiam, & quartam vigiliam*, every watch containing 3. hours. The first of the night being at six of the clock in the evening, and the fourth ended at six of the clock in the morning. *g* These watches were distinguished by several notes and sounds of Cornets or Trumpets, that by the distinction and diversity thereof, it might easily be known what watch was sounded. Moreover, we must understand that the *Romans*, upon a superstitious conceit and observation of misfortunes, and evil events falling out on some days, and more happy success upon other, have called the former sort of days *Atros dies, or dies prostridnani, & Egypticos amoebias Grac inuncupant, perinde ac si nefandos dies.* The reason why they were called *Postridnani*, was because they thought *Dies postridis Calendas, Nones, & Idus*, i.e. The next day after the Calends, Nones, or Ides of every moneth to be unfortunate; and the latter sort they called *Albos dies, b* borrowing the names from the *Seybians*

*g* Alex. Gen.  
I. 1. c. 11.

*b* Vid. Eras:  
adag. unione  
signare.

thians, who used to chalk out the fortunate days in their Kalendars with white Characters: whence Horace saith,

*Cressa non careas pulchra dies nota.*

Other-some, as their unfortunate and unlucky days, were noted with a coale or black Character, according to that, — *Nigro carbone notatus.*

Again, their Kalendar distinguished some days for Holy-days, which were called *Dies festos*, festival days, or *dies Feriatis*, & *Ferias*, Holy-days, because they did upon such days *Ferire victimas*, i. e. offer up sacrifices. Others were distinguished for working days, which they called

*Profectos*, *quasi procul à festis*. The third distinction was of half holy-days, which *ab intercidendo*, they called *Dies intercisis*, as it were days cut asunder: the one part of them being allotted for wordly busyness, the other for holy and religious exercises. *k* The *feriae* were either *private*, and so they belonged sometimes to whole families, as

*i* Ascensus in  
ep. 3. illust.  
vir. 1. 2.

*l* Rosin. ant.  
l. 4. c. 3.

*Familia Clandia*, *Emilia*, *Julia*, &c. sometimes to private persons, as every one his birth-day, particular expiations, &c. or else they were *publica*, such as the whole Common-wealth did observe; and they were of two sorts, and one called *Anniversaria*, which were always to be kept on a certain day, *l* and thereupon they were called *feria stativa*; the other *conceptiva*, which were arbitrary, and solemnized upon such days, as the Magistrates and Priests thought most expedient, whereof the *Latina feria* were chief: which *Latina feria* were kept on Mount *Alban* to *Jupiter Latian*, for the preservation of all the Latine people in league and confederacy with the *Romans*, and were solemnized in memory of the truce between those two nations. Those *Feria*, which were called *Imperativa*, & *m Indicativa*, because the *Consul*, *Praetor*, or chief Pontifie, according to their pleasure, *imperabat*, & *indicebat has*, i.e. commanded them, may in my opinion be contained under the number of *Feria conceptiva*, in respect of the uncertainty of them. Another distinction of days is found in the *Roman Kalendar*, to

*l*. Alex. Gen.  
dier. l. 5. c. 7.

*m* Alex. Gen.  
dier. l. 6. c. 7.  
Serv. *Ala*  
l. 12.

have

<sup>a</sup> Carminum  
l. 2. Ode. 13.

<sup>p</sup> Joach. Ca-  
merar. pro  
Flacco

<sup>q</sup> Bersman. in  
fuis annor. in  
Rom. Calen.  
ad finem Ovid.  
Fast.

have been in *Fastos*, whole court or leet-days; *Ex parte Fas*tos, half court days; *Nefastos*, Non leet-days; though this word *Nefastos* be often expounded unlucky, as in that of *o Harace* touching the tree, *Ille & nefasto te posuit die*, that is, he planted thee in an unhappy time. These days were called *afando*, from speaking; because upon those days which were *fas*, the *Prestor* or L. chief Justice might lawfully keep court and administer justice, which was not done without the speaking of these three words, *Do, Dico, & Addico*; *p Dabat actionem*; *Dicebat jns*; *Addicebas tam res quam homines*. Where by the way we must note, that sometimes these court-days were also called *dies comitiales*, because that *q* upon every such day which was noted in the Kalendar for a comitial day, if the publick Assemblies were not held, it was lawful to keep court: whence not only *comitialis dies* doth signifie a law day, but *comitialis homo* al. *o* doth signifie a wrangler in the law, or a litigious person.

## C A P. 2.

*De Comitiis idq; Calatis praeципue, de Rogationibus, & antiqua scribendi ratione.*

<sup>a</sup> Joan. Tristi-  
nus in orat.  
pro Caelio.

**E**Very assembly of all the *Roman* people being called together by a lawful Magistrate to determine any matter by way of giving voices, is *à coenunto* termed *Comitia* simply, without the adjection of any other word; or *Comitia calata*, that is, assemblies called together, from *Calatia*, or the obsolete Latine verb *Calo*, which signifieth to call; though afterward those assemblies only which were held either for the inauoing of some Pontifie, some *Augur*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wills and testaments, were called *Calata comitia*. Whence the will that was made in these assemblies was called *Testamentum calatis comitiis*. This kind of assembly is sometimes called *comitia a pontificia*, and *comitia sacerdotum*, in that sense as others

others are called *Consularia*, or *Edilitia comitia*, namely, because the *Pontifices* in these, as the *Consuls* and *Ediles plebis* in the other, were chosen. There followeth three other kinds of assemblies: for either the people did assemble themselves by Parishes, called *Curiæ*; or by Hundreds, called *Centuriæ*; or by Wards, called *Tribus*. The second *comitia Centuriata*, the last *Comitia Tributa*: *b* where by the way we must note, that that thing which was determined by the *major* part in any parish, hundred or ward, was said to be determined by that whole parish, hundred or ward: and that which was determined by the *major* part of parishes, hundreds or wards, was that to be approved *comitiis Curiatis, Centuriatis, vel Tributis*. Secondly we must note, that neither children untill they were seventeen years old, nor old men after the sixtieth year of their age, were allowed to suffrage in these assemblies; whence rose that adage, *Sexagenarii ponte dejiciendi*, *c* and old men were hence called *Depontani*, for the explication of which see before. Here before we speak of those three several kinds of assemblies, we will consider the manner of their proceedings in propounding causes to the assemblies. *d* The custom was at first, that the *Romans* should bestow their suffrages *Viva voce*, but afterward that every one might with freer liberty give his voicer, they commanded certain wooden tables, wherein the names of those that stood for offices were written, to be carried about, every suffrager receiving so many tables as there were suitors, then did the people give back that table with whom they would suffrage. But if a law were to be enacted, then every suffrager received two tables, in the one of which were written these two great letters *V.R.* in the other was written a great *Roman A.* those who delivered these tables to the people, did stand at the lower end of those bridges, (which were erected up for the suffragers to ascend unto the *ovilia*) whence they were called *à diribendo*, i.e. from distributing *Diribitores*. At the other end of the bridges were placed cer-

*b* Sig. de jur.  
Rom. I. i. c. 17.

*c* Pars putar  
ur ferrent  
juvenes suf-  
fragia soli,  
Pontibus in-  
firmos praeci-  
pitasse senes.  
Ovid Fast.  
*d* Philip. Bero-  
aldus in orat.  
Phil. II.

tain chests or little coffers, into which the suffragers which did approve the law did cast in the first table, those that disliked it, did cast in the second; for by those two letters V.R. which were written in the first, is meant *Uis rogat*, i. Be it as thou hast asked, this word *fiat* being understood; by A. in the second table was meant *Antiquo*, i. e. I forbid it, the word signifying as much as *antiquam volo*, I like the old law, I love no innovations. The tables being thus cast into the chests, certain men appointed for that purpose in manner of Scrutators (they called them *Custodes*, and sometimes *Conscripti*) did take the tables out of the chests, and so number the voices, by making so many points or pricks in a void table, as they found tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta non tulit septem*, and *Omnes tulit punctum*; where *punctum* is used for *suffragium*: The voices being thus numbered, it was pronounced by the common Crier what was decreed. Because the use of those tables is now grown quite out of use, I shall make bold to insert that, which with much labour I have collected out of several authors touching these tables. It is certain, that a long time the use of paper was not known, whence men were wont to write sometimes upon the inward rindes of trees, called in Latine *Libri* (so that to this day we call our books *Libri*, because in old time they were made of those rindes of trees) sometimes they did write in great leaves made of that rush *Papyrus*, growing in *Egypt*, from which we have derived our English word *Paper*, and the Latine word *Papyrus*, now signifying writing paper. Shortly after the invention of this Egyptian paper, *Ptolemy* the King of *Egypt* restrained the common making thereof, because of the great emulation between him and *Eu menes* King of *Pergamus* concerning their libraries: not long after therefore *Eu menes*, having found out the making of parchment, he made use thereof in writing, and called it from the place *Pergamena*,

gamenta. At this time did the Romans use to write in tables of wood, covered with wax, called in Latine *cerata tabula*. They wrote their wills and testaments in tables, **b** *Hinc secundum & contra tabulas bonorum possejfo*; The **b** *P. Pellitar.* possession of goods either according to or against the testator his will. Because of the wax wherewith these tables were covered, *cera* is often used in the same sense, as *Heredes prima cera*, i.e. *prima tabula*, & in *primo gradu instituti*, by which words I think are understood such heirs as *Alexander* calleth *Heredes ex toto aſſe*, that is **c Alex. Gen.** heirs to the main inheritance, oppofing them to those **dier. 1. 1. c. 1.** which did receive only legacies, whom he calleth there *Heredes in ima cera, secundos heredes, & legatarios*. **d** *Sylvius* not upon improbable grounds doth think, that *Tul-ly* doth understand by *Heredes secundis*, such heirs as were nominated to ſucceſſe the chief heir or heirs if they died. They wrote their accounts in tables, hence *Tabula accepti & expensi*, ſignifying reckning books. These count-books were of two sorts, ſome monethly, without order or method, called *Adverſaria*: *Quod adverſa parte etiam scriptis implerentur*. Others perpetual, being the tranſcript of the former, called *Tabula accepti & expensi*. They wrote their ſtatutes also in tables, whence *Tabula publica* are Englished ſtatute-books, or other books of record. Those writings or instruments which the Senate or Emperor caused to be hanged up in the Market-place, to release and discharge any bankrupt from paying his debts, they termed *tabulas novas*, we may English them letters of protection. They wrote their inventories of goods ſet to ſale in tables, calling them *tabulas adi- narii*: yea they indited their epiftles and common letters in tables: inſomuch that *tabella* are expounded miſſive letters, and *tabellarium*, which properly ſignifieth a carrier of tables, is now ued to ſignifie a letter-carrier: yet they ſometimes wrought alio in plates of lead, *et tabulae plumborum yel portas*. And thus we may under- **Fr. Sylv. in** **orat. Catilin.** **g Suidas in** **voce.** **us' Auſſd' G.** **b Suet. Ner.** ſtand what **b** *Suetonius* meaneth by *charta plumbata*, Con- cerning

<sup>5</sup> Plin. l. 13.  
c. 11.

<sup>4</sup> F. Syl. in  
orat. Catil. 3.

<sup>1</sup> Just. Lis. ep.  
inst. c. 4.

<sup>m</sup> Cie. 4. in  
Verrem.

<sup>n</sup> P. Pellitar.  
in orat. pro  
A. Cœcina.

<sup>o</sup> Vid. Eras.  
Adag.

<sup>p</sup> Herman.  
Hugo de prima  
Scrib. orig. c. 9.

<sup>q</sup> Cic. orat.  
cont. Catil.

cerning all these, <sup>i</sup> Pliny writeth excellently. Before the use and making of paper was invented, men wrote at first in Palm-tree leaves, afterwards in the rindes of certain trees, afterward publick monuments were recorded in volumes or rolles of lead, at last private matters on fine linnen or wax. <sup>k</sup> The manner how they sealed their letters was thus: they did bind another table unto that wherein the inditement was, with some strong thread; sealing the knot of that thread with wax; whence *Cicer* saith, *Linum inscidimus*, that is, we opened the letters, hence also is that of *Plantus, Cedrus ceram ac linum: agr, obliga, ob signa, cite.* <sup>l</sup> The impression was commonly their own image, or the image of some of their ancestors. The matter on which the impression was made, was not always wax, but sometimes a kind of tempered chalk, which occasioned that phrase of *Tullies, n Signum ille animo advertit in cretula.* <sup>m</sup> Lastly, they wrote their books in tables, whence from them we do at this day call our books *codices a canticibus, caudex*, signifying properly the trunk or stock of a tree, whereof these tables or books were made. We must note withall, that they wrote not with ink or quill, but with an instrument of steel or iron, having <sup>o</sup> a sharp point at the one end, and being broad, yet keen and well edged at the other; with the sharp point they did write what they pleased, with the broad end they did scrape out what they had written: whence *Stylum inverttere* is to say and unsay a thing, to turn his punch the wrong end downward, as it were to scrape out that which one had formerly written. The *Romans* did afterward use in stead thereof, an instrument made of bone, prohibiting the use of iron ones, as <sup>p</sup> Isidore noteth by that law, *Ceram ferro ne cadito.* And as we use this word *Manus* to signifie the writing it self, according to that of <sup>q</sup> Tully, *cognovit manum, & signum suum:* so in the like sense we use this word *Stylus*, to signifie the peculiar tenure or strain of phrase which any man observeth in the composing of an oration, epistle, or such like;

in which sense *Tully* useth it, as the antitheton to *gladius*, in that speech of his, *Cedat forum castris, otium militiae, stylum gladio*, though in another place he useth it to significie, if not a sword, yet a pocket dagger, as *Etsi mens ille stylus fuisse*; <sup>f</sup> in which place *Stylus* doth signifie as much as *pugio*. And here seeing we are fallen into the manner and custom of ancient writing, it will not be amiss to note that usually at the end of their books they printed a little mark, which they termed *Coronis*. Those that interpret *Aristophanes*, describe that mark thus, saying that it is <sup>t</sup> *Linea brevis ab inferiore parte flexa*. All agree in this, that it was some common and known dash, usually subjoyned to the end of books. <sup>u</sup> Others are of opinion, that the ancient *Romans* did in like manner adorn the frontispiece, or beginning of their books, with the picture of an half Moon; which observation giveth light not only to that adage, <sup>am̄o m̄ē aρχῆς μαζεῖ τὸς Κείμενος</sup>, from the beginning to the ending; but also that of *Martial. lib. 10.*

*Si nimis videor, seraḡ coronide longus  
Esse liber, legitio paucā, libellus ero.*

And that of *Ovid,*

*Candida nec nigra cornua fronte geras.*

For in *Turnebus* his judgement those half Moons prefixed were called *Cornua*. Howsoever this may be true touching the dash, or character at the end of the book, and that it was termed *Coronis*; yet I doubt whether any such half Moon was usually prefixed in the beginning of books, or whether such an half Moon were denoted by the Latine word *Cornu*. More probable is his opinion, \* who treating of this very matter, saith, that in old times a whole book was written in one continued page, neither did they then cut their books into many leaves, and bind them up in that manner as we do; but that one entire page in which alone the book was written, was wont to be rolled up upon a staff, fastned at the end thereof, in manner as many large Maps are

<sup>f</sup> Cic. orat.  
pro. Murzen.  
<sup>h</sup> ic. Toxita  
in orat. Phil. 2.

<sup>t</sup> Cœl. Rhod.  
l. 15. c. 20.  
<sup>u</sup> Turn. adv.  
l. 22. c. 10.

\* Pyr. hierog.  
lib. 34.

now adays with us: hence it is a *volutendo*, that we call our books *Volumina*, Volumes. This staff on which the book is rolled was called *Umbilicus*; the same word signifieth a navel, which because it is the middle part, and as it were the centre of a mans body, hence approved Authors use the word to signifie the middle of any thing; and haply the name was first given this staff, because when the book was rolled np, the staff was the middle thereof: howsoever, because it was fastned alwayes at the end of the page, hence *Umbilicus*, especially when it is applied to a book, signifieth the end thereof, as *Horace*, *Ad umbilicum ducere*, to bring to an end. The two pumrels, or ends of this staff, which did jut out and appear on each side of the volume, they called *Cornua*; and they were wont to be tipt with silver, or gold, or otherwise adorned. The title which was the beginning of every book, was termed *frons*. This seemeth more probable than that of *Turnebus*, and giveth greater light to that of *Ovid*,

*Candida nec nigra cornua fronte geras.*

Now that we may proceed to the matter whence we have disgressed, it remaineth that we should declare the manner they enacted their laws. All the *Romans*, though free Citizens, had not power and authority of preferring the law, but only eight of their Magistrates, which they called *Magistratus Majores*, namely the *Prator*, the *Consuls*, the *Dictator*, the *Interrex*, the *Decem-viri*, the *military Tribunes*, the *Kings*, and those *Trium-viri*, unto these eight was added one of those whom they entitled *Magistratus Minores*, namely the *Tribunus plebis*. If any of these Magistrates thought it fit to prefer a law, then did he first write it down at home, and consult with some Lawyer, whether or no it might be for the good of the Common-wealth, whether it should not weaken any former law, or whether it was not formerly included in some other law, &c. These and many other cautions were to be considered before it was preferred,

ferred ; yea some would have the approbation of the whole Senate after their advice of the Lawyer, though divers times that hath been omitted, and the Lawyer alone allowing it, the law was hanged out publiquely in the market place for the space of three market days, which kind of publishing the law was termed. *Legis promulgatio, quae proulgatio*, during which time of promulgation, reasons were alledged *pro* and *contra* by the spectators, and all the people had so much time to consult of, the convenience thereof, and every one upon just reason had free liberty to admonish him that preferred the law, either to amend it, or to surcease the proposal. After the third market day (for unless it were upon an extraordinary occasion, no assembly might be called upon a market day, because of the country folks businesse, they also having freedom of suffraging) the Magistrate did convocate the people to that place where the law was to be proposed : there the Town Clerk, or Notary, reading the law, the common crier proclaimed it, then did he which promulgated it, make an Oration unto the people, persuading them that it might pass. Sometimes others of his friends would second him with Orations in his behalf, as likewise others that disliked it, would by Orations dissuade the people, shewing the inconveniency thereof. After the Orations had been ended, an urn or pitcher was brought unto certain Priests there present, into which were cast the names of the Tribes, if the *Comitia* were *Tributa* ; or of the Centuries, if they were *Centuriata* ; of the Parishes, if *Curiata* ; then *sortibus aequis*, that is, the lots being shaken together, they drew their lots : and that Tribe or Century whose name was first drawn, was called *Tribus, vel Centuria prorogativa, a prorogando*, because they were first asked their voices. Turneb. interpreting that of *Tully, Majores voluerunt prorogativa omnem esse iustum comitiorum*, interprets it, That the Romans did so depend upon the prerogative Century, that they would always declare him Consul that was chosen by them. *Turr, adu. 1.5.6.23,* what

<sup>g</sup> Resin. ant.  
I. 6. c. 7.

<sup>r</sup> Cic. pro  
Murex.

<sup>f</sup> Hub. in lib.  
1. Cic. ep.  
fam. 2.

<sup>r</sup> Fuchs. inst.  
medic. I. 3. f. 1.

<sup>u</sup> Stadius in  
Flor. I. 3. c. 7.  
<sup>x</sup> Cic. orat.  
Philip. 2.

That *Curia* upon which the first lot fell, was called *Principium*, because that *Curia* did first suffrage: those Tribes upon whom the others lots fell, namely the second, third, fourth, &c. were termed *Tribus jure vocata*. From this distinction it is, that such a man as hath the voices of the prerogative Tribe or Century, is said to have *r Omen prerogativum*: which good fortune whosoever could attain unto, was in great hopes of obtaining the other voices of the *jure vocata*; for they never, or very seldom, would swerve from the determination of the prerogative Tribe or Century. Whiles the people were busie in their lottery, in the mean time if any <sup>f</sup> Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, & the whole assembly thereupon should be dismissed; likewise they were dismissed, if either he which first promulgated the law did alter his opinion, or if the Consul commanded supplications to be offered up in the behalf of their Emperor, or any of those holy-days called *Feria Latina, vel Imperatoria* to be observed upon that day, or if any of the people assembl'd were taken with the falling sickness (by reason whereof that disease is called by the <sup>r</sup> Physicians at this day *Morbis comitialis*.) Lastly, the assemblies were dissolved by reason of the soothsayings, which kind of dissolution was caused either by the civil Magistrates observing of signs and tokens in the heavens, and that was called *Specchio*, and sometimes *de Caelo observatio*; the very act of this observation, though no unlucky token did appear, dissolv'd the assembly: or else it was caused by the *Augures* and civil Magistrate promiscuously, whensoever any evil token was seen or heard, either by the Magistrate, or Augure, (amongst which thunder was always counted the unluckiest;) at which time the assemblies were in like manner to be dissolved. This manner of dissolution was termed *Obnuntatio*, or *Nunciatio*, <sup>u</sup> *Obnunciabat, qui contra auspicia aliqua fieri nunciabat*. Both these kinds are easie to be collected out of that speech in *Tully, x Nos augures nunciationem suam*

Iam habemus, *Consules & reliqui magistratus etiam spelli-  
onem*. Here we may fitly in way of conclusion unto this tract, add a just difference to be observed between these phrases, *Promulgare, Rogare, Ferre, & Figere legem*. *Promulgare legem*, was to hang up a law not yet asked, to the publike view of the people, to be examined by them touching the convenience thereof. *Rogare legem*, was to use a certain Oration unto the people, to perwade the convenience of the law; which Oration because it began with this form of words, *Velitis jubeatis ve Quirites?* that is, O ye Romans, is it your will and pleasure that this law shall pass or no? Hence was it termed *Legis rogatio*. *Ferre legem*, was when the law had been approved of by the people, then, to write it down upon record, and so to lay it up in the treasure-house: *y Cum approbata fuisse  
lex, in as incidebatur, & in arario condebatur, & tunc de-  
mum lata dicebatur*. Lastly, *Figere legem*, was to publish the law after it had been approved and recorded *z* by hanging it up in tables of brals in their market places, or at their Church doors. Hence it is that we use a *Ta-  
bulam figere* in the same sense, namely to enact or esta-  
blish a law, and *Refigere legem*, to disprove or cancel a law. *b* And that which was determined *Comitiis curiatis*, was termed *Lex curiata*; that which was *Comitiis centu-  
riatis*, *Lex Centuriata*; that which was *Comitiis tributis*, was not called a law, but *Plebiscitum*.

*y F. Maturan-  
tius in Phil. 1.*

*z Cor. Tacit.  
annal. l. 11.*

*a F. Matur. in  
Phil. 12.*

*b Sig. de jure  
prol. 3. c. 1.*

C A P. 3.  
*De Comitiis Curiatis.*

**C**omitia Curiata were those, wherein the Roman people being divided into thirty Parishes, did give their suffrages: They were so called from *Curia*, signifying a Parish. And until *Servius Hostilius* his time, who did first institute the *Comitia centuriata*, all things which were determined by the suffrages of the people, were determined by these *Curia comitata*: But after the other two sorts

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of

of assemblies had been established, these *Caritata* were used only either for the coacting of some particular laws, or for the creating of some certain Priests called, *Flamines*. For the better understanding hereof, we must remember, that though at first these thirty Parishes were parts of the three Tribes (each Tribe being divided into Parishes), yet in process of time the increase of the Roman people was such, that a great part of the Roman fields were filled with buildings and places of habitation, insomuch that the Tribes of the Romans were increased to thirty five: but the Parishes (because none that dwelt out of the city were tied to the rites and ceremonies of the Roman Religion) did not increase, so that the Parishes did not always remain parts of the Tribes. Hence it followeth, that all the Romans had not power to suffrage in these assemblies, but those alone who dwelt within the city, for no other could be of any Parish. The place where these assemblies were held, was the great Hall of Justice, called from these assemblies *Comitium*. Before these assemblies were held, it was required that some lawful Magistrate for some competent time before-hand should solemnly proclaim them, and the thirty Serjeants (each Parish having for that purpose his Serjeant) should call the people together: as likewise three *Augures*, or at least one should be present to assure them by their observations, either of the favour or displeasure of the Gods. Upon these premisses the matter was proposed unto the people, who if they liked it, then they proceeded unto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their assemblies were presently dissolved.

C A P . 4 .  
*De Comitiis Censoriatis.*

**A**S those former assemblies were called *Curia ad curias*, so were these called *Centuriata ad centurias*. *Servius Tullius* caused a general valuation of every Citizens estate throughout *Rome*, to be taken upon record, together with their age, and according to their estates and age, he divided the Romans into six great Armies or Bands, which he called *Classes*; though in truth there were but five of special note; the sixth contained none but the poorer sort, and those of no worth or esteem. The valuation of those in the first *Classis*, was not under two hundred pounds; and they alone by way of Excellency were termed *Classici*: and hence figuratively are our best and worthiest Authors called *Classici scriptores*, Classical Authors. *d* All the others, though they were enrolled in the second, third, or any other *Classis*, yet were *c. 13.* *infra classem*. The valuation of the second Band was not under sevenscore pounds. The valuation of the third was not so little as an hundred pounds. Of the fourth not less than forty pounds. Of the fifth not less than twenty five pounds. The sixth contained the poorer sort, whom *Horace* calleth, *Tenus censu homines*, men of small substance; and also they were called *Proletarii*, *a munere officiisque prolis edende*, as if the only good that they did to the Common-weal, were in begetting of children; and sometimes they were called *Capite-censi*, that is, such as paid very little or nothing at all towards subsidies, but only they were registred among the Citizens, as it appeareth by *e Siganus*. These six great bands or Armies were subdivided into hundreds, called in Latine *Centuria*. The first *Classis* contained fourscore centuries of footmen, and eighteen of horsemen; The second contained twenty centuries of footmen and two of workmen, which followed after to make

*d A. Gel. I. 7.*

*c. 13.*

*e Sig. de jur.*  
*Rom. I. 1. c. 4.*

military engines and weapons : The third also, as likewise the fourth, contained twenty centuries of footmen, but to the fourth was added two other centuries of Trumpeters, Drummers, and such like, who upon just occasion did *Classicum canere*, sound the Alarum, and upon just occasion did again *receptni canere*, sound the retreat. The fifth Classis contained thirty centuries of footmen : the sixth or last Classis contained one century : so that in all the 6. Classes were contained 193. centuries. Where we must note, that all the centuries of footmen did consist, the one half in every Classis of the younger sort, who were to make war abroad upon the enemies ; the other half of old men, who remained at home for the safety of the City. All that hath been hitherto spoken of these *Centuriata Comitia*, may be collected out of *Sigonius* in the place above quoted. The chief Commander of every century was called *Centurio* ; the rod, or tip-staff wherewith he did strike his Souldiers to keep them in array, was called by *Pliny*, *Centurionum vitis* : So then we may perceive, that those *Centuriata comitia* were those, wherein the people did give their voices by centuries or hundreds. Now the centuries did not consist of those alone which had their places of habitation at *Rome*, but of certain *Municipal States* also, and such Colonies or other States that could *d Plenum civitatis jus cum jure suffragii adipisci*. e Now the custom in old time was, that all these centuries should march in their armour after the Magistrate which assembled them into the *Campus Martius*, there to give their voices. But this custom continued not long : for thereby they did disarm the City, and give their enemies (if any should assail them in time of their assemblies) the greater advantage ; for their greater security thereof, they appointed a flag to be hanged out upon the Mount *Faniculus*, some few armed men standing there in watch and ward for the safeguard of the City ; and when the assembly was to be dissolved, then did the watch depart, and the flag was taken down : neither could

*d* Rofin. ant.

1.6.c.10.

*e* Rofin. ant.

Rom. 1.6.c.16.

could any thing after that be determined, but if they continued their assemblies, then did they proceed to the giving of their voices, in old time thus: Those centuries of the first *Classis* being the wealthier, had the prerogative of suffraging first, and because this first *Classis* contained more centuries than all the rest, therefore if they could agree among themselves, the other centuries were never asked their voices. This kind of suffraging being somewhat partial, inasmuch as the richer and wealthier being placed in the first *Classis*, did oversway the elections against the poorer sort of people, thence did the after ages appoint that that century should have the prerogative of suffraging first, upon whom the lot fell. The other centuries were called *f* *Centuria Jure-vocata*, and did give their voices not by lots (as the *Tri-bus Jure-vocata* did) but the elder and wealthier centuries did suffrage next after the prerogative century, according as their place required.

*f* Rosin. ant.  
Rom. l.6. c.20.

CAP. 5.  
*De comitiis Tributis.*

For the better understanding of these assemblies by Tribes or Wards, it will be needful first to learn, that this word *Tribus* in this place doth signify a certain region, ward, or local place of the City, or the fields belonging thereunto, according to that; *g* *Tributa comitia erant, cum ex regionibus & locis suffragabantur.* It was so call'd either *à tributo dando*, every several region or quarter paying such a tribute: or *quia primo tres tantum fuerunt*, the whole City being at first divided only into three regions, or wards, each national Tribe having his several region, or local tribe to dwell in. The first national tribe called *Ramnenses*, did inhabit the Mount *Palatine*, and the Mount *Cælius*; and those two hills made the first local tribe. The second national tribe called *Tatenses*, did inhabit the *Capitol*, and the *Quirinal* Mountain, which two

*g* A Gell. l.19.  
c. 27.

Mountains made the second local tribe. The third national tribe did inhabit the plain between the *Capitol* and the *Palatine Hill*, and that plain was called the third local tribe. Of these tribes more is spoken in the first division of the Roman people. Only here we must note thus much, that in process of time, after the City was enlarged, and the number of the Roman Citizens increased, these local tribes were also augmented, so that they amounted at the last to the number of 35. some of them being called *Urbana*, others *Rustica*; *h Urbane ab urbis regionibus, Rustica ab agri partibus erant nuncupata*. And of those two sorts, the *Tribus rusticae* were accounted the more honourable. Moreover we must remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*, sometimes in their great Hall of Justice called *Comitium*, sometimes in the *Capitol*; many times in other places, according to the discretion of the Magistrate which caused these Assemblies.

## C A P. 6.

## De Candidatis.

**I**T shall not be impertinent to annex some necessary observations touching the Roman Petitors or Suitors for bearing office: where we will observe these three phrases, *Ambire magistratum, Inire magistratum, & Abire magistratum*. The first signifieth, to sue for an office: the second, to enter into the office: the third, to depart out of the office. Again, the difference of these phrases, *Conferre legitima suffragia, & Explere suffragia*. The first signifieth, to have so many voices as the law doth require. The second signifieth, to have more voices than any other Competitor, but not so many as the law requireth.

These persons were termed *Candidati*, à *toga candida*, from the white gown which they did wear, as it appear-  
eth

*;* Rosin. ant.  
Rom. l. 20. c. 6.

er more at large, where we have spoken *de Romana ro-  
ga*. That they might the easier procure the good will of  
the people, these four things were expected from them.  
First, *Nomenclatio*, the saluting of every Citizen by his  
name, for the better discharge of which, they had a cer-  
tain follower, which should by way of prompting tell e-  
very Citizen his name as he passed by, and hence this  
prompter was sometime called *a Nomenclator*, which  
word doth properly signifie a common Crier in a Court  
of Justice, such as call men to their appearance, whence  
they had their name from *Nomen* and *call*, an old Latine  
word to call; sometimes *b Monitor*, sometimes *Factor ab in-  
fa ciendo in aures*. 2. *Blanditia*, that is, a friendly compul-  
lation by the addition of some complemental name, as  
well-met friend, brother, father, &c. 3. *Affinitas*, that is,  
an hot canvassing, or soliciting men without intermis-  
sion. Lastly, *Benignitas*, a bountiful or liberal largess or  
dole of money, called *congiarium*, from the measure *Con-  
gius*, containing a Gallon; because their *l* dole was at  
the first made of oil, or wine distributed in those mea-  
sures. Howbeit ~~ut tu~~ *mensura*, any dole, gift or largess in mo-  
ney, or otherwise, is called *Congiarium*. The distributers  
of this dole were called *m. divisores* & *n sequestris*, al-  
though sometimes *sequester* signified a briber or corrupter  
of a Judge. Likewise their bounti or liberality consisted  
in providing great dinners, and exhibiting magnificent  
shews unto the people, &c. Where we must observe, that  
as often as this largess is called *Largitio*, it is taken in the  
worst sense, namely for an unlawful bribing of the suff-  
fragers under a pretended largess, *o Benignitas liberali-  
tatem magis significat quam largitionem*.

Rosin. ant.  
Rom. 1. 7. c. 8.

*a Cic. orat.  
pro L. Mur.  
Mercemur  
servum qui  
dictet nomina,  
&c.*

Hor. I. I. ep. 6.

**b** Cic. loco  
supra citato.

l G. Trapez.  
in Philip. 3.

sig. de jur.  
l. 2. c. 29.  
Bart. Lat. in  
orat. pro M.  
Cœl.

Cic. orat.  
L. Murz. 1

CAP. 7,  
*De Romanis vestibus.*

WE may observe in reading old Authors, that as well the *Romans* as the *Gracians*, had dyvers distinct

stinct habits, or outward vestments. The *Grecians* had their Mantle called *Pallium*, the *Romans* their Gown called *Toga*: and by this different kind of garment the one was so certainly distinguished from the other, that this word *Togatus* was often used to signify a *Roman*, & *Palliatuſ a Grecian*. f *Togati pro Romanis dicti, et Palliatuſ pro Grecis*. Before we proceed, we will first observe what this *Toga* was, and then how many sorts there were.

f Sig. de jud.  
1.3. c. 19.

g Mic. Toxit.  
in orat. Phil. 2.

g *Toga, a tegeydo dicta est*. It was made commonly of wooll, but according to the worth and dignity of the person, sometimes of a courser, sometimes of a finer wooll; as we may collect by that of *Horace*:

— *Mibi sit toga, qua defendere frigus*

*Quamvis crassaqueas* —

Mic. Tox. ib.

i Rosin. ant.  
Rom.  
k Sig. de jud.  
1.3. c. 19.

l Sig. ib.

m Sig. ib.

We must note with *Toxita*, that no woman of any credit did wear the *Roman Gown*, but in stead thereof did use a garment called *Stola*, from *stola*, signifying *demitto*, *quod usq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd strumpet, they would term her *i mulierem togatam*. k This *Toga* sometimes was worn open and untuckt; then was it called *toga aperta*: other times it was tuckt up, and then it was called *toga praeincta*. This cincture or girding up of the gown was, according to *l Siganus*, three-fold; *Cinctura laxior, astrictior, and Cinctus Gabinus*; *Cinctura laxior*, or the loose kind of girding was such, that notwithstanding the tuck, yet the tail trailed on the ground; *Cinctura astrictior*, the close kind of girding was such, that after the gown had been lapped, or tucked up, it should not reach so far as the feet. The first kind of these cinctures did argue a remis, soft, and effeminate mind: the latter did signifie the promptnes or readiness of the person, m *Unde, Altè praeincti, pro expeditis dicti sunt*. n *Cinctus Gabinus* was a warlike kind of girding, not so that the whole gown should be tuckt up about the middle, but that it being cast quite backward, the party should gird himself with one skirt thereof.

of. <sup>a</sup> This kind of girding was so called from a certain City of *Campania*, called *Gabii*, because upon a time the inhabitants of this City being at sacrifice, were set upon by their enemies ; at which time they casting their gowns behind them, and girding one lappet or skirt about them, went immediately to war, even from the altars, and got the conquest. <sup>b</sup> In memory of which ever after, the *Consul* when he should proclaim war, girded himself in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed war, but every souldier in time of war did wear a different kind of garment from the gown, which they called *Sagum* : we may English it a souldiers coat. Whence *Tully* useth this phrase, *ad sagam ire*, which *Erasmus* hath paralleled with this, *Ad certamen se accingere*, to buckle for war. Insomuch that *Cerdant sagam toga*, is equivalent to that of the Orators, *Cerdant arma toga*. Touching the difference of the Roman Gowns, I find them distinguished by *p Sironius* according as followeth ; in *Togam Puram, Candidam, Pullam, Pratextam, Paludamentum, Pictam, Trabeam*. *Toga pura* was the common ordinary gown worn by new married women, and *Tanaquill prima texuit rectam tunicam, qua simul cum toga pura tyrones induiuntur, novaq; nuptia*. *Plin.* 1.8.c.48. and by private men at mans estate, about the sixteenth year of their age, at which time they were said *Excedere ex ephesis*, that is, to be past striplings. Notwithstanding the sixteenth year was not always strictly without exception observed : <sup>q</sup> for *M. Aurelius* was permitted to wear this gown being but fifteen years old : and *Ca- ligula* did not wear it till the nineteenth year of his age. This kind of gown beside that it was called *Pura*, was also sometimes called *virilis*, sometimes *libera*. It was called *Pura* in respect of its pure white colour, being free from all admixtures of purple, or any other colour : and therefore some have termed it *άναυκον*, all white, others *άνιριζον*, void of purple. It was called *virilis*, because it was given to striplings, now growing to mans estate.

U

Whence

<sup>a</sup> Serv. *Aen.*  
id.1.7.

<sup>b</sup> Alex. *Gen.*  
dier.1.1.c.14.

<sup>c</sup> Sig. de jud.  
1.3.c.12.

<sup>q</sup> Rosin. ant.  
1.7.c.30.

Et toga non  
tactas vincere  
lussa nives.  
*Mart.*

*r* Rosin. ant.  
Rom. 1.5. c.32.

Aldus manu.

*t* Cic. in orat.  
pro Cælio.

*u* Sig. de jud.  
1.3.c.19.

*x* Sigon. ib.

*y* Sig. ib.

Whence we use to say of a stripling past sixteen years of age, *virilem togam sumpsit*, he is now become a man. Lastly, it was called *libera*, *r* because then they did receive some beginnings of freedom, as being about that time freed from their schoolmasters and overseers. This kind of gown was not made open, but sewed down to the bottom, and also it was made without sleeves, so that if at any time they had occasion to use their arms, they would take up their gown and cast it quite behind them, or upon their shoulders. But these striplings could not for one whole years space, cast back their gowns in that manner for their liberty of their arms without the imputation of immodesty, as appeareth by *t* Cic. *Nobis annus erat unus ad eobibendum brachium togæ constitutus*. The like liberty it seemeth was denied those that stood for places of office: *u* and thence it is, that *Horace* wisheth such to hire them a servant,

*Launum*

*Qui fodis latuſ, & cogas trans pondera dextram*

*Porrigere* —

In which place by *Pondera* is understood the Roman gown, as *x Sigonius* hath expounded that place. Now for the understanding of *Toga candida*, we are to learn a difference between this *candida toga*, and the *toga pura* above spoken of, which is sometimes called *toga alba*, both of which were white, but differed in the degree of whiteness. The *toga alba* had only the natural whiteness of the wooll, the *toga candida* had an artificial white dye, whereby the gloss of the white was made more orient and intensive. Or else as *y Sigonius* hath observed out of *Iſidorus*, intendenda albedinis causa cretam addiderant, that is, they chalked it to increase the whiteness hereof. And hereunto *Persius* alludeth:

— *Quem ducit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam nupereg*, that is, shining or splendid. Moreover, whereas the *alba toga* was the ordinary Roman gown which commonly the Roman Citizens

Citizens did wear, this *Candida toga* was only worn by those which did *Ambire magistratum*, sue for a Magistracy, or place of office, who during the time of their suit, were called from their gown, *Candidati*: and *Quintilian* borrowing his metaphor from them, hath called a young student *eloquentia candidatum*. The third sort of gown, which I termed *Tugam pullam*, was a black gown, and thereof were two several kinds: the one cole-black, which was worn *luctus causa*, in token of mourning; and the mourners were thence called *Atrati*, and as often as they did wear this gown, they were said *Mutare vestem*, which phrase in old Authors, doth signifie nothing else but to go in mourning apparel: The other not cole-black, but only foul'd or stained, and that was worn *reatus causa*, in times of arraignment, and those that wore it, were called *Sordidati*, *a sordibus in ueste*, from the spots or stains in the gown. Where we must note, that in process of time *Toga pulla* became the ordinary gown which the common people did wear; at which time the ordinary gown which the Citizens of better place and esteem did wear, was the *toga candida*; whereupon there did then grow a distinction of the Citizens, unknown to the former age, saith *Rosinus*, namely, that some were termed *candidati*, others *pullati*: *Candidati* were those, not which became suters for places of office (as in old time it signified) but those which did live in better repute than others; from whence it is, that he whose office was to read the Emperours Letters in the Senate, was called *Candidatus principis*, or *Quaestor candidatus*. It did somewhat resemble the office of the King his Majesties chief Secretary. *Pullati* were those of the commonalty or inferior sort. The fourth sort of gown was the *Toga praetexta*, so called, *quia ei purpura praetexta erat*, because it was guarded about with purple silk. This kind of gown at first was used only by the *Roman Priests*, and chief Magistrates: Neither was it lawful for such as did wear that gown to be arraigned, or sentence to be given on them

*z. Sig. de jud.*  
*l. 3. c. 19.*  
*C. c. orat. pro*  
*P. Sext. Suum*  
*dolorem ueste*  
*muta significava*  
*bant Romani.*

*a Fenest. de*  
*Mag. Rom. c. 3.*

*b* P. Pellitar.  
in orat. pro  
A. Cœcina.

*c* Alex. Gen.  
dier. l. 5. c. 18.

*d* Sig. de jud.  
l. 3. c. 19.

*e* Sig. ib.

*f* Rosin. ant.  
L 5. c. 32.

*g* Sig. de jud.  
l. 3. c. 19.

*h* Serv. En. 1. 7.

*i* Alex. Gen.  
dier. l. 3. c. 18.

untill that gown was put off. In continuance of time this *toga prætexta* was permitted first to noble mens children, afterward to all Roman children in general: whereupon *b Togatus à prætexto differt ut privatus à magistratu, & vir à puerō*; and *atas prætexta* is taken for childhood, and *prætextas*, sometimes for Magistrates, but commonly for young children. The fifth sort of gown was called *Paludamentum*; it was a military garment, which

*e* none but the Lord General, or the chief Captains did use to wear. *d* *Isidorus* said it was not only guarded with purple, but with scarlet and gold lace: whence it was sometimes called *e Toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Grecian* Emperour was wont to wear, called *f Chlamys*; yea, now it is called *Chlamys*; we may English it an *Heralds Coat of Arms*. The sixth sort of gown was *Toga picta*, *g* because in it were imbroidered goodly pictures with needle-work: It was also called *Purpurea*, not because of any purple-guard (in which respect the *Prætexta*, and the *Paludamentum* were called *Purpurea*) but because it was all over of a Purple dye: it was by some termed *toga palmata*, because in it many Palm branches being the reward and token of Victory were wrought, whence by others it was called *toga triumphalis*, because Emperours in their triumphs did wear such gowns. The last sort of gown was

*h Trabea*, whereof there were *b* three several kinds; the one woven all of purple, which was consecrated unto the Gods, the second was purple woven upon white, and this only Kings and Consuls might wear: the third was scarlet woven upon purple, and this the *Augures* only did wear. *i* This last sort was therefore called *Trabea anguralis*, the second *Trabea regia*, the third *Trabea consecrata*.

C. A. P. 8.  
De Tunica.

Those Coats which were worn under the gown, were called *Tunica*; and that they were worn under the gown, it appeareth by that adage, *Tunica pallio propior est*, that is, every one for himself first; or according to our English Proverb, Close sitteth my shirt, but closer sitteth my skin. *k* This tunica was both narrower and shorter than the gown: at first it was made without sleeves, afterward with sleeves, and by it, as well as by the gown were Citizens distinguished. The first sort of Coats was made of white cloth commonly, *l* but purfled over and imbrodired with studs of purple in manner of broad nail heads; whence it was called *Laticlavia*, or *Latus clavus*; and the persons wearing this Coat were Senators, called thence *Laticlavii*. The second sort belonged unto the Roman Knights, and it differed in making from the first, only that the purple studs or imbrodired works of this, were not so broad as the former: whence the Coat was called *Angusticlavia*, or *Angustus clavus*, and the persons wearing it were called *Angusticlavii*. The third sort belonged unto the populace, or poorer sort of Romans: it was made without any purfled works, being called *Tunicarecta*. This Coat was given together with the virile gown to the striplings past sixteen years old, and to new married women. And as the *recta tunica* was given with the virile gown; so was the *tunica clavata* given together with the *toga praetexta*; and the *Laticlavia*, otherwise called *tunica palmata*, given with the *toga picta*. The fourth and last sort belonged unto women, being a long Coat reaching down unto the heels: they called it *Stolam*. Upon it they did wear an outward garment *m* called *pallium*, and sometimes *palla*, *quia palam gestabatur*. *n* Siginius saith that this *palla* was a certain gown used by stage-players: howsoever certain it is that

*l* Sig. de jud.  
1. 3. c. 20.

*l* Salmuth. in  
Pancir. lib.  
terum deper-  
dit. c. de fibul.

Vid. Turneb.  
adv. 1. 1. c. 2.

*m* Rofin. anet.  
1. 5. c. 35.  
*n* Sig. de jud.  
1. 3. c. 19.

• Sig. ibid.

p Sig. ibid.

not only women, but men also and children did wear this kind of garment. Besides the *Roman* gown and coat, there remain other parts of their apparel to be spoken of ; such are these which follow : *Lacerna*, which some do English a Cloke, but a *Festus* would have it to be a little kind of hood, which men shouid wear to defend themselves from the rain and weather : it was made that either side might be worn outward : and at first it was worn only in war, so that *Lacernati* stood in opposition with *rogati*. p *Isidorus togatos pro urbani, lacernates pro militibus usurpatos scribit.* Afterward, as we may conjecture, it was made longer, in manner of a cloke, for it was divers times worn upon their coats in stead of gowns. Another kind of garment was the *Penula*, so callded *quasi pendula*, we may translate it a long hanging cloke. A third was called *Mitra*, which sometimes did signifie a certain attire for womens heads, as a coif, or such like : though this kind of attire was more properly called *Calamica* : other times it signified a girdle, which more properly was called *Zona* : this *Zona* chiefly signified a souldiers belt, or a marriage girdle. The souldiers belt was lined within in the inside, where when they went to war they did put their money : whence *Horace* saith of a man that bath lost his money, *Zonam perdidit* : and *Caecilius*, to be girt, signifieth *Erduras m' s'na, Arma induere*, *Cal. Rhod. l. 22. 19.* haply because that part of the body which was girt, was consecrated to *Mars*, as the forehead was to every mans particular *Genius*, the arms to *Juno*, the brest to *Neptune*, the reins to *Venus*, the feet to *Mercury*, and the fingers to *Minerva*. *Alex. ab Alex. l. 2. c. 19.* Young maids when they were married were wont to have a marriage-girdle tied about their middle, which their husband at the first night of their marriage should untie : whence *zonam solvere*, hath been translated to deflour a Virgin. This marriage girdle in former times was called *Cefus*, from whence cometh the Latine word *Incessus*, and the English word *Incest* : which in truth

truth signifieth all kind of pollution committed by un-doing, or untying this girdle, called *cœsus*: But now in a more strict acceptation it signifieth only that kind of naughtiness which is committed between two near of kin; <sup>q</sup> and that other folly which is committed with a stranger's wife, is now properly called *adulterium*; and that which is committed with a maid or widow, *suprum*. The last thing touching their apparel is their shoes, *r Calceamentorum genera duo fuerunt, calcens, & solea*. For the soal of the shoe, called in Latine *solea*, sometimes *crepidula*, and in *Cicerio* his time *gallica*, was tied on to the bottom of the foot with leathera straps or buckles, and so worn in stead of shoes. The divers kinds of these shoes did distinguish the Roman people also. To omit the difference in colours, we may reduce the chief kinds to five heads, *Mullei, Uncinati, Perones, Cothurni, Soccs*, all these sorts of shoes were made half way up the leg, as the Turkish shoes are, according to *Josephus Scaliger*; and they were either laced close to the leg, as many of our boots are now adays; or clasped with taches, or hasps. The first sort called *Mullei* from the fish *Mullus*, <sup>s Salmut. in Pancir. lib. rerum deperdit. cap. de Fibulta.</sup> being like unto it in colour, were also called from their clasp *r calcis Lunati*, because the clasps were made in form of a half Moon, which half-mooned clasp resembling a Roman C, signified a hundred, <sup>t Appositam nigrae lunam subexit alutæ.</sup> <sup>Juv.</sup> intimating thereby that the number of the Senators (they only being permitted to wear that kind of shoe) were at first a full hundred and no more. Others are of opinion that they wore this mooned clasp, to put them in mind that the honour to which they had attained, was mutable and variable as the Moon. For they think that these *Lunati calcii* were not received as a token of Nobility only at *Rome*, but in other places, to which purpose they interpret that of the Prophet *Esai. cap. 3. In die illo auferit Dominus ornamenti calceorum & lunulas. Cal. Rhod. leet. ant. 1.20. c. 28.* *Uncinati calcii*, were those, which the Souldiers were wont to wear, I take them to be the same with those

those which they called *Calige*, from which kind of shoes *C. Caesar Caligula* had his name, because he was born in the Army, *Quia natus in exercitu fuerat, cognitum calceamenti militaris, i.e. Caligula fortissimus est. Aurel. Viit. Epit. de vita imperat. Perones* (as we may conjecture) were laced up the leg: for *Tertullian* making but two sorts of shoes, saith, there were the *Mullei* called from their clasps *Lunati*, and the *Perones* made without such half-mooned clasps, called also *Calcei puri, quoniam ex puro corio facti*; and these *Perones*, or *puros calceos* all the other Romans did wear, *x* with this note of distinction, that the Magistrates shoes were beset with precious stones, private mens were not. Thus much concerning both the kinds and fashion of the shoes may be collected out of *Rosinus* in the place above quoted. The description and use of the *Cothurnus* and *Soccus*, may be seen in the Tract *De Romanis Indis.*

*x* Salmuth. in  
Panciroli. lib.  
terum deper-  
dit. c. de fibula.

L I B.



## LIB. III. SECT. II.

## Of the Roman Magistrates.

## CAP. i.

*De Magistratis Romanis.*

**W**E being to treat of the *Roman Magistrates*, will first see what the definition of a Magistrate is : A Magistrate is he <sup>o</sup> who receiveth by publick authority the charge and oversight of humane affairs belonging to the Commonwealth.

<sup>o</sup> Sig. de jur.  
Rom.l. 1.c.20.

These *Roman Magistrates* were either to be chosen only out of the better sort of *Romans*, called the *Patricii*; or else only out of the Commonalty, <sup>p</sup> The first were thence called *Magistratus Patricii*, the second *Magistratus Plebeii*. The *Patricii* had power to hinder the Assemblies of the people, namely their *Comitia*, by observing signs and tokens from the heavens : howbeit some of them had greater power, others less : insomuch that some were called *Majores Magistratus, quoniam habebant majora auspicia*, i.e. <sup>q</sup> *magistrata*. Others were called *Minores Magistratus, quoniam habebant minora auspicia*. Of these in their order.

<sup>p</sup> Sig. de jur.  
Prov.l.3.c.1.

<sup>q</sup> Feneft: de  
Magist. Rom.  
c. 1.

C A P. 2.  
De Rege & Tribuno Celerum.

**I**N the infancy of *Rome* it was governed by a King unto *Tarquinus Superbus* his time, who by maintaining that shameful act of his Son towards *Lucretia*, did so incense the people, that they did not only forgo the present exile him, but decreed that their City should never after be governed by a King. This King had absolute Rule and Government over the City. For the safety of his person he had three hundred chosen young men always to be attendant about him, much like unto our Kings Majesties Guard here in *England*, or rather his *Pensioners*. They were called *Plutar. in Romul. 8.* *Celeres*, a *celeritate*, from their readiness in assistance; sometimes they were called *Trossuli*, *Plin. l. 33. c. 2.* because they alone, without the help of any footmen, did take a certain City in *Etruria*, called *Trossulum*. Other times they have been called *flexumines*, whereof as yet there hath been no certain reason rendered. Each hundred of them had their several Overseer, called *Centurio*; and over them all there was one general Overseer and chief Commander, whom they called *Praefectum*, *vel Tribunum Celerum*, his place being next to the King. A second sort of attendants about the King were called *Lictores, à Ligando*, according to that, *Lictor colligat manus*. They were by the Grecians called *παρθενοί*, which we may render Virgins from *παρθενος* a rod, and *παρθενος* to have; though sometimes *παρθενος* do signify the same as *παραδοσι*, the rehersers of *Homers* verses, or in general of any other Poets, *παραδοσι* *παραδοσι*, from patching together other mens Poems. For the reciters of *Homers* verses were wont to hold a rod or wand in their hand during the time of rehersal. *Cal. Rhod. lib. c. 29.* They did somewhat resemble our Serjeants, there being in number 12. of them. Their office was to carry certain bundles of birchen rods with an ax wrapt up in the midst of them;

the

the rods in latine were called *Fasces*, the ax *Securis*.<sup>t</sup> The reason why they carried both axes and rods, was to intimate the different punishment that belonged to notorious and petty malefactors. The reason why they were wrapped up together, was not only that they might thereby be more portable, but that the anger of the Magistrates might be somewhat allayed whilst they were unbinding. Hence, because these *Fasces virgatum & securum*, did betoken honour and chiefdom in place and authority, by the figure *Synecdoche*, this word hath been used to signify honour and dignity, as *Fasibus suis abrogatis*, he being discharged of his Magistracy or Dignity; and *Fasces submittere*, to give place, or yield unto. *Valer. Publicola* gave the occasion of the proverb. He, to insinuate himself into the hearts of the people, is said *Submittere fasces populo*, *quoties prodiret in concionem*. Some interpret it, as if he were wont to command the Serjeants quite to depart out of the assembly with their rods, which opinion *Plutarch* in *Publicola* confuteth, writing thus, *αὐτὸς τε τὰ διαδεσμένα διανοίας παρελθεῖ, ὅπερα τοῦ διηγεῖται κατεβαῖνειν.* *Fasces* ipso in *concionem progressus populo* *submisit inclinavitq.* So that the phrase signifieth properly, the not-holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cael. Rhod. lib. 12. c. 7.*

## C A P. 3,

*De Senatu, & quin Princeps Senatus, & qui Senatores Pedari;*?

**T**Ouching the election of the *Senators*, the number of them, and the distinction of them into *Senatores majorum*, & *Senatores minorum gentium*, sufficient hath been delivered in the second division of the Roman people; as likewise in the third division hath been shewn the habit or gown by which the *Senators* were distinguished from the Roman Gentlemen. Here therefore it shall be sufficient for us to understand, that every

<sup>t</sup> *Joac. Camerar. in orat. pro Flacco. Immedicabile vulnus ense recidendum, &c.*

solemn meeting, or consistory of these *Senatores* was called *Senatus*. The fore-man of them (which could be no other than such as had been either *Consul* or *Censor*) was called *Princeps Senatus*, and his opinion was always first asked. Now among those that had born those fore-said offices, it was in the *Censors* power to make whom he would fore-men. The decree of this Consistory was called *Senatus consultum*. And many times it is written with these two letters only *S. C.* In like manner their preface to these decrees was commonly these two capital letters *B. P.* that is, *Bonum factum. Suet. Jul. Cas. c. 80.* and it had the same use as *In nomine Dei* with us. The place where this Consistory was had, they called *Senatum*.

<sup>u</sup> Mart. Phileticus in Cic. 1.1. ep. fam. 1.

<sup>x</sup> Mart. Philet. ibid. It. A Gel. no. Attic. 3. c. 18.

None was <sup>u</sup>ordinarily admitted into the place of a Senator, before the five and twentieth year of his age: and of those that were admitted, some were allowed to ride unto the Senate-house in a Curule Chair, namely when they had born such office, which gave them right unto that Chair; others which had not born such office went on foot; <sup>x</sup> whence these latter were cal'd *Senatores pedarii*. They determined their acts which they cal'd *Senatus consulta*, sometimes by departing down their benches, and dividing themselves into sides; those which did approve that which was proposed, sided with the party who did *Referre ad Senatum*, that is, propose the matter unto the Senate; the others departed unto the contrary side; or if they came not down at all, but sat still on the benches, then did they signify by holding up, or beckoning with their hands, what side they would take. Now if the major part were easie to be discerned, then they rested there, terming that *act* to be decreed

<sup>y</sup> Hubert. in Cic. lib. 1. ep. fam. 1.

*In illius sententiam iturus sum, & Manibus pedibusq; discedere in alicujus sententiam*, that is, to be fully perfwaded of ones opinion. Now if both companies were almost equal, so that the major part could not easily be discerned, then did they proceed

ceed to give their voices, and that which was thus determined, was said to be deereed *per singulorum sententias exquisitas*, that is, by voices. Here we may observe, that to those who were favourably heard in Senate, *His Senatus dare dicebatur*: and likewise they were said *flare in Senatu*; as on the contrary they were said *iacere*, whom the Senate neglected, or rather condemned. *a Cum mibi stanti jacens minaretur*, saith *b Tully*. If any Senator were absent without a lawful excuse, then was he fined; and for the payment thereof, he did put in a pledge, which if he did not ransom, then did the common Treasurer *Cedere vel concidere pignora*, that is, strain or seize upon the pledges, making common sale thereof, in which sense those two phrases are used, namely, *capere pignora*, & *ausferre pignora*, that is, to strain or seize upon a mans goods.

C A P. 4.  
*De Consulibus.*

**A**fter the expulsion of *Tarquinius Sup.* the last Roman King, all the Citizens in *Rome* assembled, and concluded that the Government of the City, which before was in the hand of one alone Governor, called their King, should now be divided between two: *c* who at first (before there was any subordinate office as a *Prætorship*) the Romans called *Prætores*, *quod prairent populo*. Not long after they were called *Judices à judicando*. In process of time they were known by no other name than *Consules à consulendo populo*. *d* No Citizen was ordinarily created *Consul* before the forty third year of his age. Neither might any be chosen without special dispensation, either in their absence out of *Rome*, *e* or in time of their triumph; which was the reason that *Julius Caesar* was glad to forego his triumph at that time when he was *Consul* with *Bibulus*. The signs or tokens of this *Consular* dignity, were the twelve *Lictors* carrying their bundles of rods and axes, *f* the first moneth before one

*g* Ascensius in  
Cic. l. 1. epist.  
fam. 4.

*a* Cic. orat. de  
arusp. resp.

*b* Rosin. ant.  
l. 7. c. 7.

*c* Rosin ant.  
Rom. l. 7. c. 9.

*d* Cic. orat.  
Phil. 5.

*e* Suer. Jul.  
Cæs. cap. 18.

*f* Alex. Gen.  
dier. l. 1. c. 8.

\* Cœl. Rhod. l. 12. c. 7.

<sup>g</sup> Fenest. de Mag. Rom.

<sup>b</sup> A. Gel l. 3. c. 18.

<sup>i</sup> Stadius in Flor. l. 1. c. 5.

Consul, the second before the other, as formerly they had done before the Kings. \* Now he that had the rods carried before him in the first moneth, either he had more children than the other, for the *lex Julia* gave precedency to him who had most children, or he was elder than the other, or in time of the election he was pronounced before the other, for which respect he was called *Consul major*, and *Consul prior*. <sup>g</sup> The reason why each Consul had not twelve *Littors* always, was because the tyranny of the Consuls might then seem to be doubled, and to exceed the tyranny of the Kings. Another token was a certain Chair of Estate called *Sella currua*, that is an Ivory chair, so called from the matter whereof it was made; and <sup>b</sup> because this chair was commonly carried about in a certain Chair or Chariot, wherein the Consul did ride, hence from *Currus* which signifieth a Chariot, it is also called *Sella currua*: where <sup>i</sup> note that the word *Cornu* is sometimes used substantively, and then it signifieth some chief magistracy or office among the Romans. The gown by which they were distinguished from other Magistrates or private men, was a certain purple gown, which from the great embroidered works was called *Trabea*, and he that did wear it was thence called *Trabeatus*, according to that, *Trabeati curia Quirini*. It will be worth the observation to note, that the Romans did date their Deeds and Charters in old time, by naming the year wherein their City was founded, as to say *Ab urbe condita*, the twentieth, thirtieth, or fortieth year, &c. But in process of time their manner of dating was by subscribing the names of their present Consuls, as to say, such a thing was determined. *L. Valerio, M. Horatio Consulibus*, such and such being Consuls: whence Suetonius speaking of *Julius Caesar*, saith, he was appointed to be *Flamen Dialis, sequentibus consulibus*, that is, the next year following. Yea this was so common a date, that to know the age of their wines, they signed their vessels with the names of their Consuls, adding withall, that

that they might know the goodness of their wine, the name of the country whence it came, according to that of *Janus. Sat. 5.*

— *Cuius patriam, titulumq. senatus*

*Delevit multa veteris fuligine teste. Turn. adv. l. 1. c. 1.*  
Those alone who had born the office of a Consul, not every one that was capable thereof, were said to be *Viri consulares.* At the first those who were created Consuls remained in their office the space of a whole year, being *designati ad consulatum* upon the twenty fourth of *Ostob.*

*Ad consulatum non inierant ante Calendas Jan.* that is, the first of January. The reason of this chalme, or *interim* between their designation unto their office, and their entry into it, was (as we may probably conject) that the Competitors might have some time to enquire *de Ambitu*, that is, whether there was no direct and unlawful means used in the canvasing. In proces of time, either by voluntary resignation, or deposition, or death, many Consuls have been chosen in the same year, and they were called *Non ordinarii, & suffecti Consules.* At such times all their Deeds were dated by the names of the two first Consuls which began the year: whence those two first, and likewise all those who continued in their office the whole year, were called *Consules Honrariss, and Consules Ordinarii.*

*¶ Tittinus in  
orat. Cic. pro  
Cecilio.*

*¶ P. Ramus in  
orat. Cat. 1.*

*¶ F. Sylv. in  
Cic. orat. pro  
Mur.*

*¶ Rosin. ant.  
Rom. l. 7. c. 9.*

C A P. 5.  
*De Censoribus.*

**T**He Consuls finding themselves incumbred with so many businesses of a different nature, did by consent of the Senate choose two peculiar Officers, called *o Censores a censendo*, because they lessed and valued every mans estate, registering their names, and placing them in a fit century. For it did concern the Romans to know the number, and likewise the wealth of the people, to the end they might be informed of their own strength, and

*¶ Fenest. de  
Mag. Rom.  
c. 17.*

and so shape their course accordingly, either in undertaking wars, transplanting Colonies, or in making provision of victuals in time of peace. A second and main part of their office was in reforming manners, to which end they had power to enquire into every mans life. This part of their authority was noted out unto us by this phrase, being called *Virgula censoria*. If any one had plaid the ill husband, and neglected his farm, or left his vine untrimmed, the censors took notice thereof. They did *Senatu & Tribu movere*, i.e. they did depose Senators and pull down men from a more honourable Tribe, to a less honourable. *Diminutio maxima* was the loss of ones Tribe, City and Freedom. These Censors were reputed of the best rank of Magistrates in *Rome*: they remained in their office an whole five years space ordinarily; I say ordinarily, because *r* through the abuse of their place, the office had been made sometimes annual.

*f* That five years space the Romans did call *Luſtrum*, because they did once in every five years revolution *Luſtrare exercitum Romanum*, by sacrifice purge the Roman Army. Hence we say *duo Luſtra*, ten years, *tria Luſtra*, 15. years, &c. The performance of this *Luſtration* belonged also unto the Censors: for after the Censors had performed the one part of their office, in registering the just valuation of every Citizens estate, *t* they did lead a Sow, a Ram and a Bull three times about the Army, and in the end sacrificed them unto *Mars*: and thus to purge an Army, is, *condere Luſtrum*; though sometimes *condere Luſtrum* doth signifie, to muster an Army. These sacrifices, as likewise all others of the like nature, that is, wherein there was a Sow, a Ram, and a Bull sacrificed, were termed sometimes *u Sua vetauralia*, sometimes *Solitanuria*, sometimes *x Taurilia*. Moreover it did belong unto these Censors to farm out the Tributes, Imposts, Tollage, &c. *y* At the five years end, the acts of both their Censors were registered upon books of record, which records were laid up in a certain religious house dedicated to

to the *Nymphs*. Whence *x* Cicero speaking of *Clodius*, *x* Cic. pro  
faith, *Qui adem Nymphaeum incendis, ut memoriam pub- Milone*  
licam incensis tabulis publica impressam aboleret.

CAP. 6.  
*De Pratoribus.*

**T**He Consuls by reason of their many troubles in war, having no time to administer justice unto the Roman people, did for the better help therein, create two new Officers for the executing of justice, the one to examine and judge of matters within the City, between Citizen and Citizen; the other to decide Controversies between foreigners. The first they *a* called *Pratorem ur- bani*, and *Pratorem maiorem*; the other *Pratorem pere- grinum*, & *Pratorem minorem*: we may English them Lord Chief Justice. Where we must note, that at the first there was only the *Prator urbanus*, until the cases and suits in law became so many, that one was not sufficient to hear them all, *b* yea at last the number of the *Prators* came to 16, namely, when those two were added for the pro- viding of corn and grain; whence they were called *Prato- res cereales*: *c* nay there were at last 18. *Prators*, there being two others added to judge of controversies touching feoffments of trust, called thence *Pratores fidei com- missarii*. *d* *Causarum* duo genera sunt, *alia private, alia pub- lica*; *hac criminis* *as, illas* *civiles* *appellant*. In those cases which were private, that is, *e* touching equity and up- rightness of any act, or the restitution of any money or goods unlawfully detain'd from the right owner, it be- long'd principally unto the *f* 2. first *Prators* to judge, *g* but under them unto the *Centum- viri*, who oftentimes are called by *Tully Recuperatores*, and *Indicis hostiæ*; the Court *Hasta centum- viralis*, because one of the marks and special ensigns was a spear erected up in the place the Court was kept. Those cases which were publick or criminal, as Treason, Murther, Buying of voices in the

*a* Pighius *x-*  
*quip. comp.*

*b* Alex. Gen.  
dier. l. 2. c. 15.

*c* Feneſt. de  
Mag. Rom.  
cap. 19.

*d* F. Sylv. in  
orat. pro Mur.

*e* P. Saxon. in  
Cic. orat. pro  
S. Rose.

*f* Rosin. ant.  
l. 7. c. 11.

*g* Saxonius  
ibid.

*h* F. Sylv. Inc.  
orat. probatur

*i* Rosin. ant.  
l. 9. c. 18.

*k* Rosin. ant.  
l. 7. c. 11.

*l* Rosin. ant.  
l. 6. c. 18.

*m* Sig. de jud.  
l. 1. c. 7.

canvassing of Offices, &c. were called also *causa capitales*, and *causa dimicatio*, that is, in such cases wherein if the party accus'd had been found guilty, he was *caepit damna-tus*: by which phrase we must not understand always *Ultimum supplicium, sed aliquando exiliū, quo scilicet capta*, that is, *civis eximitur a civitate*. These cases at the first were heard by the Kings and Consuls; afterward by certain appointed thereunto by the people, being called from their inquisition *quaestores parricidii*. In continuance of time the examination and hearing of these publick cases was turned over unto certain Magistrates, who because they were to continue their office a full and entire year (whereas the others had their authority no longer then they sat in judgement) were thence for distinction sake called *Praetores Quaestores*, and the cases were termed *Quaestiones perpetuae*: *k* because in these cases there was one set form of giving judgement perpetually to remain: whereas in those private or civil causes the *Praetor* did commonly every year change the form of giving judgement by hanging up new edicts. *l* Here we must note, that these *Quaestores parricidarum*, otherwise called *Praetores Quaestores*, had not the examination of all publick cases, but sometimes upon extraordinary occasions either the Consuls, the Senate, or the people themselves would give judgement. Now as those former *Praetors* had a spear erected up, whereby their Court for private causes was known; so had these *Quaestores* a sword hanged out in token of their Court. *m* *Praetorum insignia duo fuere, hasta & gladius, illa ad iurisdictionem, hic ad quaestiones significandam*. The officers which did attend these *Praetors* were *Scriba*, i.e. certain Notaries much resembling the Clerks of our Assizes, their office being to write according as the *Praetors* or chief Justices had bid them, taking their name *ascribendo*. The second sort were called *Accensi, ab acciendo*, from summoning, because they were to summon men to their appearance. They much resembled our Bayliffs errant. The third sort were *Li-  
tores*

Etates; of which before. <sup>a</sup> The authority of the Urbane Praetor was so increased in time, yea his honour was such, that whatsoever he commanded, it had the name of *Ius honorarium*. <sup>b</sup> Others are of opinion, that only the Praetors edict was that *Ius honorarium*; <sup>c</sup> the Praetor *Urbanus* being wont at the entrance into his office, to collect a set form of administration of Justice out of the former laws, and several edicts of former Praetors, according unto which he would administer Justice all the year following: and lest the people might be ignorant of the Contests thereof, he caused it to be hanged up to the publick view. This form of Justice was termed *Edictum*, *ab edicendo*, i. e. *q. imperando*, because thereby he did command, or forbid something, to be done. Whence *Pellarius* in the place now quoted, doth translate *Cos. solum edicta*, Mandatory letters, that it might be distinguished from other Magistrates edicts. It was commonly called *Praetoris edictum*. And as *Pippius* obserueth in the place above quoted, it was called *Edictum perpetuum*, not absolutely because the vertue thereof was perpetual, (for that expired together with the Praetors office, and therefore <sup>d</sup> *Tully* calleth it *legem annim*), but in respect of other edicts made in the middle of the year upon extraordinary and unexpected occasions, which latter sort of edicts <sup>e</sup> *Tully* calleth *Peculiaria & nova edicta*. Afterward, <sup>f</sup> *Salvius Julianus* collected an Edict out of all the old Edicts of the former Praetors, wherein almost all the whole Civil Law was contained, and this was called properly *Edictum perpetuum*, because that all the Praetors ever after did administer Justice according to that Edict, by the appointment of *Hadrianus* being then Emperor. The Edict being given out, the administration of Justice consisted in the use of one of these three words, *Do*, *Dico*, & *Addico*, i. e. <sup>g</sup> *Dat actionem*, *Dicit ius*, *Addicittam res quam homines*. That is, he is said *Dare*, when he giveth out an action or writ against a man; *Dicere*, when he passeth judgement on him; and *Addicere*, when he in

<sup>a</sup> Fenest. do  
Rom. Mag.  
cap. 19.

<sup>b</sup> P. Pellit. in  
Cic. orat. pro  
A. Cæcina.  
<sup>c</sup> Pigh. *Æq.*  
pet. com.

<sup>d</sup> P. Pellit. in  
Cic. orat. pro  
A. Cæcina.

<sup>e</sup> *Salvius Julianus*

<sup>f</sup> *Cic. in Ver. 5.*  
*Sig. de jud.*

<sup>g</sup> *I. Camer. in  
Cic. orat. pro  
Flacco.*

the Court doth see and allow the delivery of the thing or the person on which judgment is passed. The form of Addiction was thus: After judgement had been pronounced in the Court, the party which prevailed laid his hand on the thing or the person, against which sentence was pronounced, using this form of words, *Hunc ego bominem, sive hanc rem, ex jure Quiritium meam esse dico.* Then immediately did the L. chief Justice *Addicere*, that is, approve the challenge, and grant a present possession. *Ant. in Fast. lib.* For explanation whereof we must know, that this word *Addico*, is sometimes *verbum Angustale*, sometimes *Forense*, sometimes a term of Art belonging unto the discipline of the *Angures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods; the opposite hereunto is *Abdicere*. Sometimes this verb *Addico* is a term of Law, signifying as *x* much as to deliver up into ones hands, or into ones possession: whence we do not only call those goods that are delivered by the *Praetor* unto the right owner *bona addita*, but those debtors also which are delivered up by the *Praetor* unto their creditors to work out their debt, are termed *servi additi*. Yea moreover, because in all port-sales it was necessary that the *Praetor* should *Addicere bona*, deliver up the goods sold, hence doth this word often signifie to sell, as *Addicere sanguinem alicujus*, to take money to kill a man, to sell a mans life. Touching the reason of their name, they were called *Praetores a praecundo, quoniam jure praibant*. And *y* those alone were properly termed *viri Praetoris* which had born this office, not they which were capable thereof: In the same sense we say *Viri Censorii*, and *Viri Edilissi*, &c.

*y* Fr. Matu-  
rantius in  
Philip. 13.

CAP.

## C A P. 7.

*De Imperatoribus, Caesaribus, &c. Augstis.*

When *C. Julius Caesar* had overcome *Pompey* his Sons in *Spain*, at his return to *Rome*, the Senate welcomed him with new invented Titles of singular honour, styling him *Pater Patria*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus*, and *Imperator*, all which titles were afterward conferred upon *Ostavinius Caesar*, and all the Emperours succeeding him desired to be called *Imperatores & Caesares* from him. Where we must understand, that the name *Imperator* was not altogether unknown before, for by that name the Roman Souldiers were wont (even at that time) to salute their Lord General after some special conquest. q. Serv. Ital. 6. These Roman Emperours were afterward called also *Augstis* from *Ostavinius Caesar*, whom when the Senate studied to honour with some noble Title, some were of the mind that he should be called *Romulus*, because he was in a manner a second Founder of the City; but it was at length decreed by the advice of *Mannius Plancus*, that he should be styled by the name of *Augstus*, which we may English *Soveraign*: And they counted this name of more reverence and majesty than that former name of *Romulus*, because all consecrated and hallowed places were called *Loca Augstia*. The authority of these Emperours was very great, even as great as the Kings in former times.

## C A P. 8.

*De principibus iuventutis, Caesaribus, & nobilissimis Caesaribus.*

A Custom <sup>a</sup> was received among the Roman Emperors in their life time to nominate him whom <sup>a</sup> Rosin. ans. I. 7. c. 3. they would have to succeed them in their Empire; and him they called *Princeps iuventutis, Caesar, & Nobilissimus Caesar.*

*Cesar.* The like custom was practised by *Charles* the fifth Emperour of *Germany*, and so hath been continued by his Successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so far invested in the Title to the Empire by the means of the present Emperour, that upon the death, resignation, or deposition of the then being Emperour, he immediately should succeed.

## C A P. 9.

## De Praefecto Urbis.

**R**omulus for the better Government of the City appointed a certain Officer called *Urbis Praefectus*, to have the hearing of all matters or causes between the Master and the Servant, between Orphans and their Overseers, between the Buyer and the Seller, &c. Afterward in time of the Roman Emperours, this *Urbis Praefectus* did assume unto himself such authority, that he would examine and have the hearing of all Causes of what nature soever, if they were *Intra semissimum Lapidem*, within an hundred miles of *Rome*: (for <sup>b</sup> *Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected.) In the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him. I am not ignorant, that some do make this latter kind of Prefecture, or Lieutenantship, a different Office from the former; but I should rather think it to be one and the same, only his authority to be more enlarged in the Kings absence: and of this opinion do I find <sup>c</sup> *Sig. de jur.* <sup>c</sup> *Signius*, *Alexand.* *Neopl.* and <sup>c</sup> *Sigoniis*.  
<sup>b</sup> *Despauterius*  
 in sua syntaxi.  
<sup>c</sup> *Rom. I. c. 20.*

## C A P.

## C.A.P. 10.

*De Decem-viris, legibus scribendis.*

For the better administration of Justice, the <sup>d</sup> Romans appointed three men, namely, <sup>e</sup> *Sp. Posthumus, Ser. Sulpicius, A. Manlius*, to go to *Athens*, and other Grecian Cities, there to peruse the Grecian Laws: to the intent that at their return, both a supply might be made of those Laws that were wanting in *Rome*, and the other that were faulty might thereby be rectified and amended. At the return of those three men, the Consuls were deposed, and both their Authority and Ensigns given unto <sup>f</sup> ten men newly elected for the Government of the State, and were thence called *Decemviri*. The first elected into this *Decemvirat*, were. *Ap. Clandius, T. Gennius, P. Sextus, Sp. Verninius, C. Julius, A. Manlius, Ser. Sulpicius, P. Curiatius, T. Romul. Sp. Posthumius*: all of them such as had born the Office of a Consul. The Laws which they brought from *Athens* were written at first in ten Tables of Brass: afterwards two other Tables were added, at which time those laws began to be known and distinguished from others by the name of *Leges 12. Tabularum*. And according to those Laws Justice ever after was administered to the Roman people, at first by these ten men appointed thereunto, whose authority was as large even as the Kings and Consuls in old time, only it was annual. One of them only had the Ensigns of honour carried before him, one alone had the authority of convocating the Senate, confirming these Decrees, and the discharge of all State-businesses, <sup>g</sup> the other did little differ from private men in their habit, only when the first had ruled a set time, the others succeeded by turns. This kind of Government did not continue long in *Rome*, for in the third year all their power was abrogated, because of their Tyranny and Oppression used by them towards the Roman people.

<sup>d</sup> *Fenest. de Mag. Rom. c. 14.*  
<sup>e</sup> *Rofin. ant. lib. 7. c. 9.*

<sup>f</sup> *Lip. Reg. Leg.*

<sup>g</sup> *Rofin. ant. Rom. 7. c. 19.*

## C A P. 11.

## De Interregia potestate.

*f* Dion. Halic.  
lib. 2.

*g* Rosin. ant.  
L. 6. c. 16.

*h* Alex. Gen.  
dier. l. 5. c. 6.

**A**fter the death of *Romulus*, *f* the Senators divided themselves into several Companies, called *Decuriae*, committing the Government of the Kingdom to that *Decurie*, that is, to those ten men, upon whom the lot fell, calling them the *Interreges*. Where we must know, that these ten did not rule all together, but each man ruled for the space of five days, whence *g* Rosinus calleth this Magistracy *Magistratum Quinqueduanum*. After that five days Government had passed through the first, then did they go to lots to have a second *Decurie* chosen, and so a third, &c. This of an *Interrex* remained even in the Consuls time, so that if by some extraordinary occasion the Consuls could not be created, *h* then they chose one, to whom alone they committed the whole Government of the Kingdom, and him they called *Interregem*.

## C A P. 12.

## De Dictatore.

**W**hensoever the Romans found themselves encumbered with dangerous Wars, or any other eminent dangers, they presently chose a *Dictator*, to whom alone was committed the Authority and rule of the whole Kingdom, differing from a King only in respect of his name, and the continuance of his Office. Touching his name he was so called, *quoniam dictis ejus parebas populus*. His Office continued but six moneths, and at the expiration thereof, if need required, he was chosen again for another six moneths. He was also called *Populi Magister*, inasmuch as none could make their appeal from him unto the people. As soon as himself was established in his office, he chose a subordinate Officer,

*i* Pygminus in  
Tyrann.

ficer, whom he called *k Equitum Magister*, his authority much resembled his whom they called *Urbis praefectum*: for as the *Praefectus urbis* in the absence of the King, so this *Magister Equitum* in the absence of the *Dictator* had full & uncontrollable Authority of doing what he would.

*k* *Stadius in Flor. l.1.c.11.*

## C A P. 13.

## De Tribunis militum

These military Tribunes were of two sorts: The one had all power and authority which belonged unto the Consuls: and thence were called *Tribuni militum consulari potestate*. The occasion of them was this: The Protector of the Commons called *Tribuni plebis*, did earnestly labour that the Commonalty might be made as capable of the Consular dignity as the Nobility. This was followed so hot, that in the end, though the Nobility would not grant them way unto that dignity under the name of Consuls, yet in effect they would grant it them; namely, the Consuls should be deposed, and in their stead other Magistrates should be chosen, part out of the Nobility, part out of the commonalty, who though they were not called Consuls, but *Tribuni*, yet were they of Consular authority: by which they were distinguished from the other sort of Military Tribunes, who had power and authority only in matters Military, and were known by the name of *Tribuni militum*, without any addition. <sup>u</sup> Sometimes there was one of these three words prefixed, *Rutuli*, or *Rufuli*, *Suffecti* and *Commissarii*; not thereby to intimate unto us any distinction or place, but to signify their manner of election. For if they were chosen by the Consuls, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed unto them by virtue of an act of Law preferred by *Rutilius Rufus*, when he was Consul. If they were chosen by the Soldiers themselves in their Camp, then were they called *Tribuni suffecti*, that is,

*Rofin. ant.*  
*l.7.c.10.*

<sup>u</sup> *Alex. Gen.*  
*dier. l.6.c.18.*

Tribunes substituted or put in the place of another. Whence we may conject, that the Souldiers were not permitted to make any election, but in time of need, when their former Tribunes were taken from them by some violent or unnatural death. The last sort called *Comitati*, were so called, because they were chosen by the Roman Assemblies, called in Latine *Comitia*. They were termed *Tribuni*, because at the first institution of them ( whether we understand the Consular Tribunes, or this latter sort ) there were but three of each. In procel of time notwithstanding I find the number not only of those Consular Tribunes, but of those other also to have been increased to six, accordingly as the thousands in a legion were multiplyed. These latter sort of Tribunes, in respect of the military discipline, which was to see the Souldiers being faulty to be punished, we may English *Knights Martial*: In respect that their authority was over Foot-men only, we may English them *Serjeants Major*; Only this difference there was, to every thousand of Foot-men in any legion, there was as many military Tribunes under their chief Commander called *Imperator*. But in our English Armies there is but one *Serjeant Major*, who alone under the Lord General hath Command over all the Foot-men, be there never so many thousands.

C A P. 14.  
*De Triumviris Reipub. constitnenda.*

His tyranny of the *Triumviratus* began by a conspiration between *Augustus Caesar*, *Antonius* and *Lepidus*: For these three under the pretence of revenging *Jul. Caesar* his death, obtained chief power and authority for the space of five years throughout *Rome*, p pretending that they would settle the Common-wealth, which at that time by reason of *Jul. Caesar's* death was much out of order. Those five years being expired, they refused

refused to resign their Authority, exercising excessive cruelty towards all the Romans of what degree soever.

¶ This kind of Government remained but ten years, <sup>1</sup> Suet. Octa. neither ever were there any other than those three a. Aug. c. 27. bove-named. They had power to enact any new Law, to reverse any former Act, without the consent of the Senate or Commons. They might proscribe and banish any Roman at their pleasure, and as often as we read *de Triumviratu* simply, without any adjunction, or *de Triumviratu Senatus legendi*, we are to understand it of this, though some upon unsure grounds do dis-joyn them.

## C A P. 15.

## De Quæstoribus Arariis.

This Office of the *Quæstors* seemeth not unlike to a publick Treasurers, which collecteth the subsidies, customs, money, yearly revenues, and all other payments belonging to any State or Corporation. And hence *r quonia publica pecunia querenda præpositi erant*, <sup>1</sup> Fenest de they took their name *Quæstores*. Sometimes they are called *Quæstores Urbani*, to distinguish them from the Provincial *Quæstors*, which bare office in the Roman Provinces: sometimes they are called *Quæstores ararii*, to distinguish them from those that were called *Quæstores parricidii*, or *rerum capitalium*, of which you may see more in the tract *de Prætoribus*. <sup>2</sup> Lastly, they were called *Quæstores ararii*, to distinguish them from the *Tribuni ararii*, i. those Martial Treasurers, or Clerks of the Band, which did receive the Souldiers pay from these City-Treasurers, and so pay it to the Souldiers. The office of those City-Treasurers (then being at first but two) was to receive all the City accounts; to disburse at all occasions of City-expences; to take an oath of him that the Souldiers had saluted by the name of *Imperator*, that he had truly informed the Senate both of the number of enemies slain, as also of the number of

<sup>1</sup> Sig. de jur.  
Rom. l. 2. c. 8.

Citizens lost : otherwise he might barr the Emperour of his triumph. Moreover, whatsoever spoils were taken in war, they were delivered up unto these City *Quaestors*, and they selling them, laid up the money in the great Treasure-house, called *Ædes Saturni*.

## C A P. 16.

*De Tribunis Plebis.*

*z* Rolin. epit.  
rerum Roin.

**T**HE Roman Commonalty finding themselves oppressed by the wealthier sort, departed unto the *Aventine Mount*, threatening the Roman Nobility, that they would forsake the City, and never again adventure themselves in the war for the defence thereof, unless they did find some release and easment from those excessive payments of use and interest unto their Creditors ; yea beside the remission of their present debts, before they would return unto their City again, they would have certain Magistrates chosen, which should be *x* *Sacro-santi*, that is, such as might not be hurt or violently used, not so much as in word, and if any had violated that law, whereby they were made *Sacro-santi*, then was he accounted *homo sacer*, that is, an excommunicate person, or such an one whose soul should be vowed unto some God ; insomuch that if any after had killed him, he should not be liable unto judgement,

*y* Alex. Gen:  
dier. 1.6. c. 14.  
Rosin. ant.  
1. 7. c. 23.

*y* quoniam illius anima dis devota amplius humani commerciorum sit. To those Magistrates the protection of the Commons was committed, who because they were at first chosen out of the Military Tribunes, therefore did they always retain the name of Tribunes, being so called that they might be distinguished from the others, *Tribuni Plebis*, Protectors of the Commons. At the first institution of them, they were in number but two, as *z* some have thought ; *z* others say five : afterward (as it is yielded by all writers) they increased unto ten. Their authority at first consisted chiefly in this, that they had power

*z* Pighius in  
fuo *Tyrann.*  
• Pomp. *Lat.*

power to hinder any proceedings in the Senate, which they thought might prove prejudicial unto the Commons, so that they had not authority to enact any new decrees, as afterward by abusing their authority they did. *b Sed eorum autoritas magis in intercedendo quam jubendo.* And hence was it that in old time these Protectors of the Commons were not permitted to come into the Senate : but *c* they sat without at the door, whether whatsoever was determined within the Senate was sent unto them to be perused by them, and if they did approve it, then did they subscribe a great *Roman T.* being the first letter of this word *Tribuni.* *d* The houses of these Tribunes stood open night and day, as a common refuge or place of succour for all that would come ; *e* neither was it lawful for them to be absent out of the town one whole day throughout the year.

*b* Stadius in  
Flor. l. 3. c. 2.

*c* Phigius in  
suo Tyran.

*d* Rosin. ant.  
Rom. l. 7. c. 23.

*e* Pighius in  
Tyran.

## C A P. 17.

*De Aedilibus, & Praefecto annonae.*

**V**E may read of three sorts of Roman Magistrates called *Aediles*, the two first had their name *ab edibus curandis*, having in their charge to repair both Temples and private dwelling houses which belonged unto the City. The first sort were called *Aediles curules*, *a sella curuli*, from the chair of State, wherein it was permitted them to ride, and these were chosen *f* out of the Senators. The second sort were called *Aediles Plebeii*, and they were added unto the former at the earnest suit of the Commons, they being to be chosen out of them. Where we must note, that they were not so added, that both sorts should rule at one and the self same time, *g* but that the *Curules* should rule the one year, and the *Plebeii* the other. To these *Aediles* it did belong, besides the reparations of Temples and private houses, to look unto the weights and measures in common sale : for they had power to examine *Actiones redditibitorias*, that

*f* Pilet. in l. 2.  
Cic. epist.  
fam. 10.

*g* Alex. Gen.  
dier. l. 4 c. 4.

that is, such actions, by virtue of which he that had sold any corrupt or sophistical wares, was constrained to take them again. Moreover they had the charge of the publick conduit or water conveyances, of provision for solemn plays, &c. Of the third sort there were also two, who were in a manner Clerks of the Market: *b* for unto them belonged the looking unto the victuals sold in the market, and corn: Whence they were called by them *Ædiles cereales*, and *b* by the Greeks *προστάται*. This office for ought that can be collected out of those that treat of it, differeth but little from his, whom the Romans called *Annona praefectum*, only this, the *Ædiles cereales* were *Magistratus ordinariis*, the *Praefectus, extraordinarius*, namely, *k* such as was chosen only in time of extraordinary dearths: he having for that time larger authority then those ordinary Clerks of the Market. For as it appeareth by *Rosinus* in the place now quoted, this *Praefectus* had power of himself to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of corn, fore-stalling the Market, &c.

## C A P. 18.

## De Triumvirio.

**B**Esides that *Triumviratus Reip. confituisse*, of which we spake before, there were divers kinds of *Triumviratus*, namely, *Triumviri capitales*, three high Sheriffs, who had the charge of prisons, and were to see malefactors punished. For which purpose eight *Lictors* did attend them. There were also *Triumviri Minarii*, three men, we may term them Bankers, who had authority to pay out of the common Treasury poor mens debts. Sometimes there were appointed five to this office, whence they were also called *m Quinq; viri Mensarii*, both being called *Mensarii* from *Mensa*, a Table whereon they told their money. Another sort of *Triumviri* there were appointed to pres Souldiers, whence they were

*Alex. Gen.*  
*dier. 1. 3. c. 16.*

*I. Camer. in*  
*orat. Cic. pro*  
*Flacco,*

were called *Triumviri conquirendi juvenes idoneos ad armamenta*. We read also of certain *Triumviri*, which were elected as chief Captains to guide and conduct the people in transplanting Colonies, and thence were they named *Triumviri colonia deducenda*; but sometimes for this purpose they elected seven, ten, or twenty, and so named them *Quinq; viri, Septem viri, Decem viri, & Viginti viri Colonia deducenda*. Three other sorts of *Triumviri* remain, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence were called *Triumviri, A. A. A. E. F. F.* that is, *Auro, Argento, Aere, Flando, Feriundo*, for they had the charge of coining the money. 2. *Triumviri veletudinis*, three Pest-men, which were to oversee those that lay infected with any contagious sickness. Thirdly, <sup>n</sup> *Triumviri nocturni*, three Bell-men which were to walk the town at night, and to give notice of fire.

<sup>n</sup> Alex. Gen.  
dier. 1. 3. c. 16.

C A P. 19.  
*De Praefectis Aerariis.*

**A**ugustus Cæsar desiring for the better safety of the City to maintain many bands of Souldiers, which should always be in readines for the defense of the City, desired of the City a yearly subsidy for the maintenance of those Souldiers: but being denied it, he built a certain Treasure-house which he called *Aerarium militare*, whereinto he cast his money for himself and *Tiberinus*, and promised to do so every year. Afterward when he saw the Treasury not to be enriched enough, either by that money which himself bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall into the Treasury. For the charge and custody hereof he appointed three of those Souldiers which always attended about him for the safeguard of his person, calling them *Praefectos Aerarii*.

C A P.

## C A P. 20.

## De Praefecto Pratorio.

ALL Captains and Governors to whom the rule of any Army belonged, were in antient time called *Pratores*: This word *Prator* signifying then three chief officers among the Romans; first a *Consul*, secondly a L. chief Justice, thirdly a L. General in war; all of them being called *p Pratores, quasi Praitores, quoniam jure & exercitu praibant*. Answerable to which threefold acception, this word *Pratorium* hath three several significations; sometimes it signifieth a Princes place or Man-nor-house, sometimes a great hall or place where judgement was wont to be given, and lastly the L. General his pavilion in the camp; *q* from which last signification it is, that those Souldiers that give attendance about that pavilion for the guard of their Captains person, are sometimes called *Milites Pratoriani*, somtimes *Cohors Pratoria*. *r* And he to whom the oversight of the Souldiers was committed, was thence called *Pratorio praefectus*.

## C A P. 21.

## De Advocato fisci.

For the right understanding of this office, we must first note a difference between these two words, *Aerarium* and *Fiscus*: *Aerarium* was a common Treasury belonging to a whole State or Corporation, whence all publick and common expences are to be supplied. *Fiscus* was the Kings or Emperours private coffers: it may be Englished the *Kings Exchequer*. The keeper thereof was called *Advocatus Fisci*. There are many other petty offices within the City, which I have purposely omitted, because there is but seldom mention of them in old Authors, and as often as they are mentioned, their names do explain their office.

C A P.

CAP. 22.

*De praecipuis Magistratibus provincialibus.*

Over the Provinces at first ruled certain Magistrates sent from *Rome*, by Commission from the Roman Senate, called *Pratores*, whose office was to administer Justice unto the Provincial inhabitants, yea, and if occasion served, to make war also upon their enemy; and this was the reason that the numbers of the *Pratores* did so increase always, namely, according as the number of Provinces did increase. The wars and tumults in the Provinces were so great, that the *Prator* was not sufficient both to manage war and execute justice: whereupon the Senate thought fit to send another Magistrate into the Provinces, whom they called a *Consul*, because the managing of war belonged unto the *Consul*, so that there were at first two ordinary Provincial Magistrates, a *Consul* to manage war, and a *Prator* or L. chief Justice to sit in judgement. And if these two by a second grant from the Senate, did continue in their office above the space of a year, then were they called *Proconsules*, & *Propratores*. But in proces of time this custom was altered; for then none could be *Proconsuls*, but those alone who had been *Consuls* in *Rome*: neither could any be *Propratores*, which had not been *Pratores* at *Rome*. Their manner being, that the next year after the expiration of their offices in *Rome*, they should depart into some certain Province, to bear the same offices again; being not called *Consules* or *Pratores* as before, but *Proconsules* and *Propratores*: and for this cause always so soon as the *Consuls* had been created, the Senate did appoint certain Provinces for the *Consuls*, which being appointed, the *Consuls* did either agree between themselves, who should go to the one, who to the other, and that was termed *comparare provincias*; or else they did decide the question by lots, and that was termed *sortiri provincias*:

*Alex. Gen.  
dier. 1. 3. c. 3.*

<sup>t</sup> Camer. pro  
L. Flacco.

<sup>u</sup> Rosin. ant.  
L. 10. c. 24.

<sup>x</sup> Pomp. Lxt.  
de Mag. Rom.  
<sup>y</sup> Sig. de jur.  
Prov. l. 2. c. 2.

<sup>z</sup> Sig. de jur.  
Prov. l. 2. c. 3.

<sup>b</sup> Sig. ib.

cias: howbeit, sometimes the Senate did interpose their authority, and dispose the same. Under the Emperors the Governors of some Provinces were appointed by the Senate and the people, and those were called *Proconsules*, and the Provinces, *Provinciae Consulares*: others were appointed by the Emperors, and they were called *Proprietores*, and the Provinces *Praetoriae Provincie*. For all this which hath been noted touching the Provincial Magistrates, it is almost *verbatim* translated out of <sup>u</sup> *Rosinum*. To which we add this, namely, that every *Proconsul* and *Proprietor* did usually choose a Lieutenant, such a one as should be assistant unto him in matters of Government, whom they called *Legatum*, so that this word <sup>x</sup> *Legatus* signifieth three several Magistrates among the Romans: two whereof may be proved out of <sup>y</sup> *Sigonius*: first that it signified such a Lieutenant, or Lord Deputy under a *Proconsul*, or *Proprietor* in a Province. 2. That it signified such a one as is employed in the delivery of a message or embassage from one Prince or State to another; we commonly call them *Embassadors*. Lastly, it signified a Lieutenant or chief Captain in war, whose place was next under the L. General. His Office at the first institution, was not so much to rule or command, as to assist the L. General in counsel; whence *Polybius* commonly joyneth these two together *propositus & auxiliarius*, that is, *Legatus & confiliarius*; that the latter word might expound the former. *Lipf. de mil. Rom. l. 2. dial. 11.* Moreover, every *Proconsul* & *Proprietor* had with them certain Treasurers called *Quaestores provinciales*: These Provincial Treasurers were chosen by the Roman people commonly, namely, such a number as the Roman Provinces did require. After the election, they between themselves did cast lots who should go unto the one, who unto the other Provinces: <sup>b</sup> sometimes extraordinarily by virtue of special act or Decree, this or that special man hath obtained this or that Province without any lottery. By the way we must note,

of the Roman Magistrates.

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note, that all Provincial *Quaestors* could not be called *Proquaestors*, as all Provincial *Consuls* and *Pretors* were called *Proconsules* and *Propraetores*: For these only were called *Proquaestores*, which did succeed these Provincial *Quaestors*, when they did either die in their office, or depart out of the Province, no successor being expected from *Rome*, at which times it was lawful for the *Proconsul* or *Propraetor* to choose his *Proquaestor*. Moreover, there were beside these *Legati & quaestores*, d other Military Officers, such as are the *Tribuni militum*, *Centuriones*, *Præfetti*, *Decuriones*, together with other inferior officers, as their *Secretaries*, *Bailiffs*, *Criers*, *Serjeants*, and such like.

*c Rosin. ant.*  
*Rom. l. 7. c. 45.*

*d Sig. de jur.*  
*Prov. l. 2. c. 2.*

Aa 2

L I B.



## LIB. III. SECT. III.

*Of the Roman Punishments.*

## C A P. I.

*Supplicia, Mulcta, Lex Ateria, Tarpeia, Ego ei unum  
eum multam disco, &c.*

Ouching the Military Punishment, which belonged to the Military Discipline, it shall be treated of in its proper place. Here only of the City Discipline, and the usual Punishments exercised therein, which we may divide thus.

Punishments publiquely inflicted on malefactors, are either *Pecuniary mulcts*, or *Corporal punishments*: The *Pecuniary mulcts* were of two sorts; either an appointed sum of money was required of the party guilty, & then it was called *Mulcta*; or his whole estate was seised on, and then it was termed a *Confiscation* of his goods. The *Mulct* was twofold, the one termed *Mulcta suprema*, the other *Mulcta minima*.

<sup>4</sup>*Gellius* 1. 11. Of both these a *Gellius* writeth thus, *Suprema mulcta erat duarum ovium, & triginta boum, pro copia scilicet boum, & penuria ovium, sed cum ejusmodi mulcta pecoris, armentique a magistris dicta erat adigebantur boves ovesque alias pretiis parvi, alias majoris, eaque res faciebat iniqualem mulcta punitionem:*

nem: idcirco postea lege Ateria constituti sunt in oves  
unguibus aries deni, in boves aries centeni: Minima vero mul-  
ta fuit ovis unius. Moreover, as he observeth in the same  
place, whensoever the Magistrate did set a fine or mulct  
upon the offenders head, he used the word *Ovis* in the  
Masculine gender, as *Ego ei unum ovem multam dico, &c.*  
The law which *Gellius* calleth *Ateriam legem*, *b* *Festus* *b* *Festus* in  
calleth *legem Tarpeiam*, because *Aterius* enacted it when *voce peculiar.*  
he was Colleague or fellow-*Consul* with *Tarpeius*. Like-  
wise we may take notice of the clemency used in those  
times. It was provided by the law, that seeing there  
was a greater plenty of Oxen, then of Sheep, and to  
be fined an Ox, was not so much as to be fined a Sheep,  
therefore the Magistrate pronouncing the fine *c Bovem* *c P. in lib. 18.*  
*prins quam Ovem nominaret, ut innotesceret Romanis mi-* *c. 3. It. Alex. ab*  
*tiorese semper paenam placuisse.* *Alex. 1.3. c. 5.*

## C A P. 2.

*Capitis diminutio, maxima, media, minima, Aqua, & Ignis*  
*interdici, Proscriptio, Latafuga, Deportatio, exi-  
guntur, Martirium, Aerariis, In aerarios relati, Religatio, Lanii*  
*cum tiniinnabulio.*

**T**He corporal punishments are either such as were *Capital*, depriving a man of his life: or *Caſtigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a civil acceptance, for the loss of freedom, which the *Romans* called *capitis diminutionem*, Disfranchising, because in every *Free-man* thus disfranchised, one head of the Corporation was as it were cut off: sometimes it is taken for the loss of ones life, and this they called *Ultimum supplicium*. That disfranchising called *capitis diminutio*, was a three-fold. *Maxima, Media, & Minima*. The least degree was, when the *Censors* pulled a man from an higher Tribe, down to a lower and less honourable,

*d Robin. ant.*  
*1. 9. c. 3.*

honourable, or when by any censure they disabled a man from suffraging, or giving his voice in the publick Assemblies: such as were thus in the last manner punished, were termed *Ærarii*, and *In ararios relati*,

e Sig. de jur. Rom. l. 1. c. 17. *e quia omnia alia jura civium Romanorum præterquam tributi & aris conferendi amiserunt.* This kind of punishment, as it may seem, was many times exercised for irreverend gesture, or speeches used by such as were

questioned by the *Censors*. Three several examples are noted by f Gellius; the last is this, *P. Scipio Nasica* and

f A. Gell noxt. Attic. l. 4. c. 17. *M. Pompilius* being *Censors*, taking a view of the *Roman Knights*, observed one of them to have a lean starvling horse, himself being fat, and in good plight; whereupon they demanded the reason why his horse was so lean, himself being so fat: his answer was, *Quoniam ego, inquit, me curro; equum statim meus servus. Diminutio media*, was an exilement out of the City, without the

g Camerar. in orat. Cic. pro Mur.

b Cel Rhod. l. 15. c. 17.

loss of ones freedom: g It was commonly set down in this form of words, *Tibi aqua & igni interdico*. And it seemeth by h *Cælius Rhodiginus*, to be all one with that kind of banishment, which the *Romans* called *proscriptio*, though it cannot be denied but that *Proscriptus* sometimes signifieth only such a one whose goods are set at sale to satisfie his creditors, because he will not appear in the Court: the form thereof is thus, The Creditors having obtained leave of the *Lord chief Justice* to proceed in this manner, they committed the ordering of the sale to one principal Creditor, and he was called simply *Magister*, and he in the name of all the rest solemnly proclaimed in the chief places of the City in form as followeth, i *Ille debitor noster in ejusmodi causa est, ut bona ejus divendis debeant, nos creditores patrimonium ejus distrahibimus, quicunque emere volet, adesto.* But for the reconciling of both opinions, we may term the first to be *Proscriptionem hominum*, the other *Proscriptionem bonorum*, which distinction being not observed, breedeth a great confusion in the Authors

i Rollin. ant. l. 9. c. 12.

that

that treat of this punishment; and because both were performed by solemn and publike Proclamations, hence the name *proscriptio* agreed as well to the goods confiscated, as to the persons banished: according to that, *Quoniam eorum nomina in publico scribebantur, hinc proscripti dicebantur*. Hence the *Grecians* used not only the word *exegiæ* but also *exiliare*, to signify the act of *proscription*, because they wrote in a publike pillar the faults and offences of such as were thus banished. But to proceed without farther digression. *Dimissio maxima* was the loss both of the City, and the freedome; and this I take to be the same which in other times was called *Lata fuga*, or *deportatio*, namely a perpetuall exilement: All standing in opposition to that other kind of banishment, called *Relegatio*, which was the exilement\* only for a season, happily for five years, &c. see *C. Rhod. lib. 10. cap. 3.* Though I deny not but that *Lata fuga* was so called, not only in respect of the duration of time, it being a perpetual banishment, but also in regard of the places so generally prohibited, <sup>m</sup> for he that was thus banished, was tyed and limited to one peculiar countrey, all other places in general being forbidden him. Those punishments that deprived of life in ordinary use, and of which there is most frequent mention in *Roman Authors*, are these which follow, *Furca, Crux, Carcer, Culens, Equuleus, derupe, Tarpeia, dejectio, Scala Gemonia, Tunica, Damnatio, in gladium, in lndum, ad bestias*. In general we are to note, that the execution was without the gates of the City, to prevent the noysomnes which such abundance of blood might occasion, <sup>n</sup> for which reason the executioner dwelt without the City. Likewise those that were adjudged to death, when they went to the place of execution, a certain little Bell was tyed about them, that by the sound thereof, the people might beware of touching the condemned person, because the very touch of him was counted a kind of pollution: this <sup>o</sup> *Tarpeius* observeth

<sup>b</sup> F. Matur. in  
Philip. orat. 5.  
<sup>l</sup> Suidas in  
voce σχάν.

\* Adde quod  
edictum  
quamvis  
immiti mi-  
nax; Attamen  
in pene  
nomine lene  
fuit; Quippe  
relegatus, non  
exul dicitur  
in illo. *Ovid. do-  
trist. lib. 2.*  
*Eleg. 1.*  
<sup>m</sup> Tholosan,  
syntag. jura  
univ. 1. 31.

<sup>n</sup> *Plaut. Caf.*  
2. 6.

<sup>o</sup> *Tarpeius*  
1. 12. c. 22.

observeth out of *Zonaras*, and from thence the Executio-  
 ners are called *p Laniis cum tiniinnabaliis*. And for this  
 reason *q* it was, that a little bell and scourge was hang-  
 ed up in the hindmost part of the Chariet, wherein the  
 Lord General did ride in his triumph, a publike Officer  
 which rid with him in the same Chariot, now and then  
 plucking him behind, and bidding him look back, using  
 this form of words, *r Restice post te, hominem memento te*,  
 that is, Sir look behind you, remember your self to be  
 but a man. For the sight of the scourge and bell served  
 to put him in mind, that notwithstanding his present  
 triumph and acclamations, his after-miseries might be  
 such, that he might be punished not only with whips, but  
 even with death it self.

## C A P. 3.

*Furca, Furcifer, Supplicium more Majorum, sciogula.*

*a* Isidor. orig.  
1. 10.

*b* Plut. in  
Coriol.

*c* Epit. Liv.  
dec. 5. 1. 6.

**A**ncient Authors which do write of the Roman *fur-  
 ca*, do rather mention it, than explain it: but if  
 we diligently observe what they speak of it, we shall  
 find the use thereof to have been threefold. The first  
 ignominious, which *a* was when the Master forced the  
 servant for small offences *furcam circa urbem ferre*, to  
 carry his *furea* upon his shoulders about the City, confess-  
 ing his fault, and admonishing others to beware of the  
 like offence, and *b* hence such a servant was afterward  
 called *furcifer*; and here I think of was use those *stimpuli*  
 or goads, whereof I shall speak more in the Chapter fol-  
 lowing; namely, that when the party thus to be punish-  
 ed dragged back, and shewed himself unwillingly, then  
 did the Executioner prick him forward with these kind  
 of goads. The second sort was penal, when the party ha-  
 ving the *furca* on his neck, was led up & down the Cirque,  
 or some publick place, and on the way to be whipt,  
 but not unto death: *c* thus *C. Matienus damnatus sub  
 furea din virgis casus erat, & secessit nummo veniit.* He  
 was

was afterward sold, and therefore died not under the punishment. The third sort was penal too, but in a higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt under it unto death; and this was by a peculiar name called *d Supplicium more majorum*. This yet differed from that beheading with an

*d* Sueton. in  
Ner. 49.

*Ax*, which was in use among the Romans, and called by the Grecians *πλακός* from *πλάκω*, signifying an ax or hatchet; it differed I say from this, because howsoever there was in this *σφράγις αειόλις* a tying the party to a stake or post, and also *μαστίχωσις*, a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipped to death, in the latter they were after whipping beheaded with an ax, as appeareth by the *e* execution of

*e* Dion. l. 49.

*Antigonus* the King of the Jews. But to proceed in the description of the *furca*, the form thereof I take to be like the beam of a Wain, unto which the yokes are fastened; it resembleth a fork, and the *furca* is called *ξύλον διπλόν, διπλόν, δι διπλόν*, i. e. *lignum duplex, bicornutum, geminum*, in English a forked piece of timber; there is no such piece through the whole Wain, as the form of Wains is in these times, but only the beam thereof.

*f* Plutarch treating of the *furca*, saith that it is *ξύλον διπλόν τον βανδών καρείδην*, that is, a piece of timber about the waggon or wain, wherewith they uphold the beam; and he addeth, that what the Grecians call *σπασίτης* and *σηργύας*, the Romans call *furca*; now *Hesychius* describeth *σηργύας* to be *τὸ διπλὸν ὁ της Σαραντανης τὸ διπλόν ξυρός*, that is, the forked piece of timber, which they put under the yoke of the Wain; correct Plutarch by *Hesychius*, and for *τὸν βανδόν* read *τὸν ξυρόν*, and you have in both the description of the beam in the Wain. Some think that Plutarch compareth the *furca* to certain forked pieces of timber, wherewith the Wain was upheld whiles it was unloaded, but how this can stand with *Hesychius* his description of *σηργύας*, I am yet to learn; notwithstanding

*f* Plut. in  
Coriol.

ing if we admit this interpretation, that which I would hence infer is rather confirmed, than any way weakened; namely, that the form of the old Roman *furca* was forked; neither do there appear any testimonies so evident to me, as to perswade that among the ancient Romans any other was in use. True it is that in after-ages the form thereof was the very same with our *Gallowses*, which are now in use, and this haply began, when the use of crucifying was interdicted, which interdiction we read first to have taken place in <sup>g</sup> Constantines time.

<sup>g</sup> Sozom. Eccl. hist. l. 1. c. 8.

## C A P. 4.

*Crux, Servile supplicium, Titulus.*

**C**Rucifixion hath been a punishment in ancient use among the Romans; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldom times freemen, whence it is many times noted by the name of *servile supplicium* by *Tacitus*: yet <sup>b</sup> sometimes freemen, though of the baser sort, & for notorious offences, were adjudged to this kind of death; <sup>a</sup> Suet. Galb. 9. nay a clear example hereof we have in that \* *Guardian* which *Galba* crucified for poisoning his *Ward*, for the *Guardian* calling for the benefit of the *Law*, & avouching in his *plea*, *That he was a Roman Citizen*, *Galba* as if he would allay his punishment with some comfort and honour, commanded the *Cross* already made to be changed, and another to be reared far higher than the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their *Cross* upon their shoulders to the place of execution. <sup>i</sup> *Malefici cum ad supplicium educuntur, quisque suā effert crucem.*

<sup>b</sup> Vid. Lips. de cruce. l. 1.

<sup>a</sup> Suet. Galb. 9.

<sup>i</sup> Plut. de sera numinis vind.

<sup>b</sup> Vid. Lips. de cruce. l. 2. c. 5.

<sup>i</sup> Artemid. l. 2. a. 51.

<sup>k</sup> Artemidors is as plain, επειδή τοιούτοις Σταύροις οὐκ οὐδεποτέ θεραπεύεται, οὐδεποτέ αὐτοὶ θεατέσθαι, that is, The *Cross* is like unto death, and he which was to be crucified did first bear it: The party that suffered this kind of death was first stripped of all his clothes, for he suffered *I* naked; then

then was he fastned unto the Crofs, and that commonly with nails, the Greek word *περιλαμβάνειν* clearly evinceth as much, we may render it *Clavifixio*. Now that the equity of the proceeding might clearly appear to the people, the cause of his punishment was written in Capital letters, hence *m* Dio speaketh of a servant dragged to the Crofs, *μετὰ χαρακτήρων τλαῖνται τὸν θανατόν τοις δηλούσι*, that is, with letters declaring the cause of his death. This inscription was called *titula*, *Mat. 27. 37*. It was also called *titulus*, *Job. 19. 19*. from the Latine word *titulus* used in the same sense. And sometimes *ἐπιγραφὴ* & *αὐτίας*, *Mar. 15. 26*. or simply *ἐπιγραφὴ* *Luke 23. 18*. *n* Tertullian and *o* Suetonius calleth it *elogium*. The like kind of publishing the cause either by a inscription, or by the voice of a common Crier, was not unusual in other capital punishments, as *Attalus the Martyr* was led about the Amphitheatre, *πίνακες στοὺς τρεπάνους, ἵνα ἐγέγραπτο βαναστὶ ἡτοῖς ἀπελθεῖσιν οὐχι τοις οὐχιναράσ*. A table being carried before, in which was written in Latine, *This is Attalus the Christian*. That of *q* Suetonius is not much unlike, *Patrem familias detrahitum* *q* Suet. Domit. *o* spectaculis in arenam canibus objicit, cum hoc titulo, *Impie* *c. 10*. *locutus* *Parmularius*. What is meant in this place by *Patrem familias* and *Parmularius*, hath been already declared in the Chapter of *Fencers*. Moreover, such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much; the parts whereof are two; First, *r* *Verbera intra aut extra* *r* *Liv. I. 1.* *pomerium*. Secondly, *Arbore infelici suspendito*. This whipping was sometimes *sub furca*, for this *\* Valerius* is plain, *\* Val. Max. Cum servum suum verberibus militatum sub furca ad l. 1. c. 7.* *supplicium egisset*: sometimes *ad columnam*. *Artemidorus* is clear in this, *εποδεδικτον πολλὰς ἵπατος ἀπληγας*, that is, being tied to the Pillar he received many stripes. Happily *s* *Plautus* alludeth to the same:

— *abduncite hunc*

*Intro atq; adstringite ad columnam fortiter.*

Yea the antient Fathers say that our blessed Saviour

*f* *Plaut. Bac.*

*g* *Prudentius*

*Hieronymi.*

*Beda v. Lips.*

*de cruce. l. 2.*

was thus whipt : Touching the place or manner the Scripture is silent, only that he was whipt it testifieth, and that with scourges, Τὸν ἡλικίους ταξιδιών, ήταν στυπεῖν, Mat. 27. 26. This fore-whipping I take to be a matter unquestionable, but that they should be whipt on the way towards the place of execution, I much doubt, much more that they should be goaded on the way with pricks and goads by the executioner. That there was

*u* Plaut. mil.  
2. 6.

*u Stimuleum supplicium*, a kind of punishment with pricks and goads, is evident, and hence cometh that phrase *Stimulo fodere*, and hence that other phrase, *Kicking against the pricks*. Parallel to which is that of *Plaut. tract. 4. 2.*

*Stimulos pugnis cadere*. But this kind of punishment I take to have been exercised only by Masters towards evil servants, and that not as preparatory to death, but for their reformation in future times: whence by way of contempt, a servant thus handled, was termed *x Carnificinum cribrum*, because he had his back so boared with those pricking instruments that it looked like a sieve full of holes. Otherwise if we understand it as a punishment imposed by publike authority, we may say, that thereby is denoted a certain punishment exercised towards thieves in time of their examination, that by the pricking and goading of them, the truth might be confessed,

*\* Cœl. Rhod.*  
*lect. antiqu.*  
*1. 10. c. 5.*

\* for to that end theives were thus tortured, and thence were they called *Centrones*, from *κέντρον*, *Stimulus*. Lastly, we must remember that these three words, *Furca*, *Crux*, and *Patibulum*, are many times used promiscuously, signifying the whole Cros on which malefactors suffered; but in strict propriety of speech, *Furca* signifieth that forked instrument of which we treated in the former Chapter; *Crux*, that erect part of the Cross standing upright; and *Patibulum*, the thwart piece of timber upon the top of the Cross: yet sometimes also *Patibulum* is taken for the Roman *furca*, whence *Patibulatus* and *Furcifer* are used as words equivalent, and in both senses it may borrow its name from *Fato* to lay open; because

as the malefactors hands were spread abroad being fastened to the thwart peice of timber upon the top of the Cross : so were they likewise spread abroad under the *Furca*, his two hands being tied to the two forked ends thereof.

## C A P. 5.

*Carcer, Ergastulum, Tullianum, Robur, Mala mansio, Nerum, Columbar, Numella, Codex.*

**H**owsoever *Carcer* and *Ergastulum* are used promiscuously by modern writers, yet if we diligently enquire into each words origination, and how they have been used by more antient Authors, we shall find them thus differenced. *Ergastulum* was a Prison much resembling our house of Correction, into which servants only were cast : *Carcer* a more publike Prison, unto which men of better rank and fashion upon just occasion were committed. Secondly, the power of sentencing any servant to the *Ergastulum*, was proper and peculiar to the Master of the servant, without approbation from publick Authority, but the power of committing to the Prison called *Carcer*, was only in the publick Magistrate. Thirdly, *Ergastulum* took away only the liberty & pleasure of life : *Carcer* life it self. The word *Carcer* hath his name à coercendo, from restraining men of their liberty. *a* It had two principal parts, the one called *Tullianum*, the other *Robur*, besides many other rooms wherein men were kept close Prisoners ; Those two places were assigned for execution. In that which they called the *Tullianum* (we may english it *Dungeon*) they strangled malefactors. *b* It had its name from *Servius Tullius* a Roman King, the first inventor and Author thereof. Of this *Salust* writeth, *Eft locus in carcere quod Tullianum appellatur, ubi paulatim ascenderis ad levā circiter duodecim pedes humili depresso, eū munimunt undiq; parietes, atq; infuper camera lapideis fornicibus juncta sed inenta, tenebris, odore foeda, atq; terribilis ejus facies est.* In that other place which they called *Robur*, commonly

*a* Sig. de jud.  
1. 3. c. 17.

*b* Sig. ibid.

c Plaut. Poen.

5. 3.

d Plaut. Poen.

5. 6.

e Hor. lib. 1.

Od. 13.

f Turn. adv.

1. 23. c. 21.

g Plaut. in

cur. c. act 5.

sc. 5.

h Valer. 1.5.

i Plaut. Aulul.

2.9.

k Cic. pro Mi-

lone.

l Turn. adv.

3. c. 18.

commonly *Robur*, sometimes *c Robustus Codex*, sometimes *d Custodia lignea*, sometimes *e Italum robur*, (our English phrase *strong hold* fitly answereth it) they broke malefactors necks by a kind of precipitation or tumbling them headlong from a certain stock of a Tree fastened there in the earth; unto this *Tully* alludeth, *Quare fregeris ne in carcere cervices illi ipsi Vectio*: But more expressly *Plantus*, *g At ego faciam vos ambos in robusto carcere ut pereatis*. Those that had the chief oversight in such executions, were called *Triumviri capitales*, that is, *High Sheriffs*. The whole proceeding is set down by *Valerius*, *h Mulierem damnata* *Prator* *Triumviro* *necandam in carcere tradidit, quā receperat* *is qui custodia praerat, misericordia motus non protinus strangulavit; adiū etiam filia dedit, sed diligenter excussa, ne quid sibi inferret, existimans futurum, ut inedia consumeretur*; *cum vero animadvertisset filiam matrem lactis sui præsidio sustentantem, rem ad Triumvirum, Triumvir ad Pratorem, Prator ad consilium judicium perculit, & remissione muliere impetravit*. It is much controverſed among interpreters what that kind of punishment was which they termed *Malam mansionem*, we may english it *Little-ease*. Some understand hereby a certain deep dungeon, made in the form of a pit or well, called therefore in Latin *Putens*, but this as it seemeth by that of *Plantus*, was a punishment proper and peculiar to theevish Cooks:

*i Coqus abstulerunt, comprehendite, vincite, verberate, in præsum condite*. Others understand hereby a close Prison, which because of its straitness and closeness they called *arcam*, a chest: the use of this Prison was for the safe-keeping of such who were afterward to be examined of farther matters; though sometimes other offenders were cast into the same. Of these Prisons *Tully* speaks

*eth, k Subito abrepti in questionem, tamen separantur a categoris, & in arcas conjicuntur, ne quis cum his colloqui possit*. Another kind of Prison there was, called *Sextritum*, thus it is commonly rendred in Latin, but the Greek word is *oskeim*, and accordingly a *Thr nebni* renders it *Sestertium*, being

being of opinion that it was so called from the quantity of ground it contained, namely two acres and an half. *C. Rhodiginus* thinketh that *Spoliarium* and *Sextritium* were not places unlike, but herein not he alone, but divers others have been deceived; for *Sextritium* is apparently a place of *b* execution, where those were executed whom the *Roman* Emperours adjudged to death: now whether that *Spoliarium* were a place of Punishment, I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed *ἀνανθένεια*, both do signify primarily little Cells or Chambers neer adjoyning to the Bath, where such as washed themselves laid up their cloaths: In a borrowed sense both are used to signifie Chambers and Cells adjoyning neer unto the Amphitheatre or fencing place, wherein the Fencers did put up their cloaths in time of fight, and because such as were wounded in fight were carried into those Chambers, where they languishing with much pain, at last notwithstanding expired for the most part, and that not without much torturing of the Chyrurgion; hence such a *Spittle-house* is also called *Spoliarium*. Thus much *Seneca* seemeth to intimate, *c* *Nunquid aliquem tam cupidum vita putat, ut 7a-  
gulari in spoliario, quam in arena malit?* Whereby it appears, that *Spoliarium* was not a prison, unto which malefactors were judged, but rather as I said a kind of *Spittle-house*. Other kind of punishments there were of a neer likeness with Imprisonments, as casting into the Pillory, laying one by the heels, &c. Of these little is spoken more then the very names; of this sort those that do most commonly occur in authors, are these; *Nervus, Collumbar, Numella, Codex*. *Nervus* is generally thought to resemble our *Stocks*. *d* Some take it to be made of wood, others of iron, *e* *Nervum appellamus ferre-  
um vinculum, quo pedes impeditur: quanquam Plantus  
et etiam vinciri cervices ait.* Two of the last seem to have some resemblance with our Pillory: *Collumbar* had its name from *Collum*, because the neck was chiefly pained

*c* *Sen.* ep. 94.  
*De spoliario.*  
*Vid. Lips.*  
*sat. 1. 18.*

*d* *Vid. Taub.*  
*man. in Plau.*  
*Aulul. 4. 10.*  
*e* *Fest. Vid.*  
*Lam. in Plau.*  
*Aulul. 4. 10.*

in

<sup>n</sup> Turn. adv.  
l. 23. c. 21.

in this kind of punishment. *Numella* was also a kind of *Pillory*, being so called, *quasi n Nrella, quod qui eo vinculo constricti erant, nvere demissos; capite esse cogebantur.* *Codex* was a certain block or *Log*, so tyed unto the Malefactors, that they used it as a stool to sit on : The use of this may seem to have been only in private houses, thereby to keep evil servants the closer to their work : Of this *Juvenal* speaketh, *Sat. 2.*

<sup>o</sup> Turn. ib.

*Horrida quale facit residens in codice pellex.*  
*o Turnebus describeth it thus, Codex est lignis stipes, quem allegati servi qui deliquerant trahabant, cniq; insidebant vinci.*

C A P. 6.  
C U L E V S.

<sup>p</sup> Cic. pro  
Sext. Rosc.

**T**He Crime which in Latine we call *Parricidium*, is murder practised by Father or Mother towards the children, or by the Children towards either of their Parents. It had in old times a larger acception, signifying any murder between man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so unnatural, that neither *p Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it self might prove a kind of irritation to provoke some to the commission of the crime, which otherwise would never have entred into their hearts : but the wickedness of the after-times, enforced Law-givers to invent a sharp Punishment against such unnatural offences. The Punishment decreed against Parricides in

<sup>q</sup> Sen. lib. 5.  
controv. 4. in  
finis.

*q* *Seneca's Age, was, that such melefactors should be sowed up in a leathern sack, together with Serpents, and so cast into the Sea : afterward there was sowed up in the same sack an Ape, and a Cock, and at last a Dog. Whence *Juvenal Satyr. 8.**

*Cujus*

*Cujus supplicio non debuit una parari  
Simia, nec serpens unus, nec culens unus.*

*a Modestus* describeth the manner thereof thus: The Parricide being first whipt with rods untill blood came, then was he sewed up in this sack called *Culens*, together with a Dog, a Cock, a Serpent, and an Ape. *b* They would not cast him naked into the sea, lest the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

*a Digest. lib. 48. ad legem  
Pomp. de  
parric. vid.  
Cœl. Rhod.  
l. ii. c. 21.  
b Cic. pro  
Sext. Rosc.*

## C A P. 7.

*Eculens, Lamina, Ungula, Fidicula, genouis.*

*Eculens* had its derivation from *Equus*, quasi *Equuleus*, as may be collected from that description which *c Turnebus* giveth: But not so much from the posture or situation of the offenders body on the Engine, as *Turnebus* would have it, for he in no wise resembled a man on horseback, but rather from the horsing or hoising up of the party fastened with ropes unto the *Equuleus*, so that his hands being tied fast at the upper part of the Engine, and his feet at the nether part, he was hoised up in the air like unto one fastened on a Crost. The form of the *Equuleus*, I conceive thus, It was not one entire stake, but rather two long pieces of timber joyned together in form of a stake, joyned together, I say, by the means of a vice or scru; and the reason hereof was, that by help of this scru, the upper part of the Engine might be lifted up to the racking and torturing of the malefactor, or let down to the easing and remitting of his pains, as should seem good to the executioner, or other Officers, who now and then would grant some remission and respite in hope of a confession. For in the first institution, the main end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties joyns in this kind of punishment, but to enforce him unto a confession by an augmentation of his pain,

*c Turn. adv.  
l. 4. c. 3.*

*d* Sig. de jud.  
l. 3. c. 18.

they did often with hot plates of iron pinsers, burn and teare his flesh from his sides; and all this we shall find warranted by *d Sigonius*, whose words I have written down at large, *Eculens catastrophæ fuit lignea, cochlearia, ad intendendum ac remittendum apta, atq; ad torquendos homines, tu facti veritas eliceretur, instituta. Tormenti vero genus erat hujusmodi, ubi catastrophæ huic brachia pedesq; ejus, qui torquendus erat, nervis quibusdam, quæ fidicula dicebantur, alligavit, tum catastrophæ intenta atq; in altum erecta, ut ex ea quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius divellebant, deinde candensibus ejusdem corpori laminis admotis, atq; bisulcis ungulis ferreis lateribus laniatis doloris acerbitudinem agebant.* And thus we see what the use of the *Lamina* & *Ungula* were; namely, that they were not several torments of themselves, but adjuncts to this, to encrease the pain. The

*Eculens* was sometimes called *e lignum tortorium*: sometimes *f stripes noxialis*. The torturing Engine called *Fidicula*, was not much unlike: *Fides* signifieth the string of any musical instrument, and the Engine had its name from the strings and cords wherewith men were tortured upon it: of this *g Turnebus* writeth, *Fidicula quasi tormentis numerantur, miseri videntur lascivia quadam jocis nomen invenisse, quod ut in fidibus nervi item quog; ut hinc & inde multis funibus homines diffendebantur.* The torment *zoenoides* used by the *Grecians*, was either this same or very like.

*e* Sozo. hist.  
*Eccl. l. 5.*

*f* Prudent. in  
hymno Vin-  
cent. Mart.

*g* Turn. adv.  
l. 4. c. 3.

## C A P. 8.

*De rupe Tarpeia dejectio. De lapide empti. A furca redempti. Scala Gemonia. Tunica. Damnatio in gladium, in ludum, ad bestias.*

**M**alefactors for notorious offences were tumbled down headlong from a certain rock in the *Tarpeian* Mount. This kind of punishment was called either simply *Dejectio à saxo*, or *Dejectio à Tarpeia rupe*. In some cases notwithstanding by the intercession of friends, or some other means, Pardons were sometimes obtained for the condemned persons, whereby they were freed from death, howsoever the disgrace and infamy cleaved ever after unto them, and therefore they were termed *de lapide empti* : which phrase *h Cœl. Rhod.* hath parallel'd with that, *a furca redempti*, that is, *Saved from the Gallows*. *In the Aventine Mount* was a place of like nature, called *Scala Gemonia*, certain stairs whither condemned persons were dragged, and so cast headlong into the river *Tiber*. *Cœl. Rhod.* seemeth to be of another opinion : i who describing this punishment, saith that a hook was thrust into the malefactors throat, and so he haled by the Executioner unto these stairs, where having his thighs broken he was burnt. Furthermore he addeth, that they were called *Scala Gemonia*, or *gradus Gemonis*, because as some are of opinion, the first that suffered this kind of punishment, his name was *Gemonius* : or as others would have it, because it was *locus gemitus, & calamitatum*. If we admit that malefactors were here burnt, then may we think this punishment *ad Scalas Gemonias* to be the same, which sometimes was called *Tunica*. The reason of which name was, because persons thus to be burnt, were clad with a Coat dawbed in the inside with pitch and brimstone. Thence is that of *h Seneca, Cogita illam tunicam alimentis igneis & illatam & intextam*. This giveth light to that of *Juv. Sat. 8. Tunica punire molesta*.

*h Cœl. Rhod.*  
ant. l. 25. c. 22. ]

*i Cœl. Rhod.*  
l. 10. c. 5.

*h Sen. ep. 14.*

¶ Tertul. ad  
Martyr.

¶ Vid. Lips.  
Sat. 1. 2. c. 3.  
¶ Lips. Sat.  
1. 2. c. 23.

¶ Alex. ab  
Alex. 1. 3. c. 5.  
¶ A. Gell.  
1. 5. c. 14.

¶ Tertullian also mentioneth it in this sense. To these may be added two other punishments usually inflicted upon fugitive servants, but yet not so restrained unto them, as that they were not sometimes extended to other malefactors. The first is *Damnatio in gladium*, a condemning one into a Fence-school, there to be trained up in the Art of Fencing, until some publick prizes were plaid, at which time such condemned person was to fight for his life. ¶ *Capitolinus* calleth it *Ad gladii Iudicium deputationem*. But *Ulpian*, as ¶ *Lipsius* elsewhere observeth, differenceth these two phrases thus: He that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compass of a year: but he that was *damnatus in Iudicium*, had not death so peremptorily sentenced upon him; if he escaped the danger of those publicke prizes, and always got the upper hand of his adversaries, at three years end he received the *Rudem* or wand, which was a token of discharge from those bloody combates: yea, at five years end he received the *Pileum* or Cap, which was a token of his enfranchisement or freedom in the City. The second sort was *Damnatio ad bestias*, a condemning of a man to fight for his life with beasts, as with Bears, Leopards, Lions, &c. The persons condemned were termed *o Bestiarii*. A memorable example thereof we have in a certain Roman servant called *Androclus*, ¶ who having run from his master, lived in a wilderness, and whilst he rested himself in a den, there came a fierce Lion unto him, moaning and grieving because of the stump of a Tree which stuck fast in his foot; *Androclus* at first began to be affrighted, but the Lion on coming nearer and nearer unto him, and laying his foot on the mans lap, intimated his desire of help from him, which when the man perceived, he plucked out the stump, and gave him what ease he could. Afterward this fugitive being apprehended and adjudged to this punishment, it hapned that this very Lion was brought into a shew-place for *Androclus* to fight with, where instead of

a fierce onset, the Lion used a tame and familiar fawning on him, whereupon the spectators admired, and understanding the former passages between *Androclus* and the Lion, they released the servant, and freed him from his punishment. Where we must note, that this Pardon was extraordinary : *q* for usually if any so condemned happened to overthrow a Beast or two, yet was he not thereby discharged, but was to encounter with others until he were killed. Yea, it was very seldom that the man could prevail against the beast, on the contrary, one Lion hath prevailed against two hundred men, according to that, *r* *Præclara adilitas, munus Leo ducenti bestiarum.* By which we see many men one after another did thus fight with beasts at the same meeting : yea the *s* *Grecians* called such as succeeded the first Combatants *ioadpus*, the Apostle *St. Paul* calleth them *igdru*, because they were reserved until the last. *u* *Tertullian* readeth that place in this sense, and the words themselves enforce as much : for what shall we understand by *Siagon, ianis*, but the very spectacle or shew it self? and what *amicti*, which signifieth properly *Offendit*, but an allusion to him who was the chief author and exhibiter of these bloody spectacles unto the people? *\* Lipsius* hath parallel'd that phrase of *Tully, Offender munus*, with that of *Suetonius, proponere munus*; both signifying the setting forth or bestowing the fight of such masteries and fightings. And that it was no unusual kind of Martyrdom in times of the Primitive Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who rejoiced to be ground between the teeth of wild beasts, that he might be found pure bread; whose words were, *x Frumentum sum Christi, & per dentes bestiarum molor, ut munus panis Dei inveniar*: yea the word *Emissarius, mortis adductos*, helpeth this interpretation: The word intimateth that there was a sure death remained for them also, though the last. The custom being in the morning to commit men with beasts, but those

*q* *Salmut. in Panciro. de veter. ludis.*

*r* *Cic. in orat. pro Saftio.*

*s* *Suidas in voce "Emissarius."*  
*t* *1 Cor. 4. 9.*  
*u* *Tertul. lib. de pudicit.*

*\* Lips. Sat.*  
*l.2.c.18.*

*x* *Iren. adv.*  
*hær. l.5.c.18.*  
*It. Euf. hist.*  
*Eccl. 3.c.33.*

y Suet. Clau.  
c. 34.

¶ Sen. ep. 7.

isam) which remained till noon-tide, and were therefore called *Meridiani*, were committed each against other, and that without any defensive weapons, with swords in one hand cutting, & with the other hand being empty, grasping and tearing each others flesh, so that a *Seneca* speaking of this, comparing it with that former fighting with beasts, saith, *Quicquid ante pugnatum est, misericordia fuit.*

## C A P. 9.

*Ergastulum. Ergastula inscripta. Pistrinum. Damnari in Aniliam. Metallum. Inscripti. Stigmatici. Literati. Virga. Flagella. Talio.*

The state and condition of servants was various and differing among the Romans in old time, but of all they were most miserable who lived in prison. Whence those that were ordinarily employed in these prison services, they were either such servants as were bought for that purpose, or such as for notorious crimes were adjudged thereunto by way of punishment, whence the word *Ergastulum* is chiefly derived from the Gr. Ἐργαζόμενος, because it is νόος ἐστι στρωματος Ἐργαζοντος: locus in quo vinciti operantur. For even in the day time when they were sent to work, they had shackles & bolts about their legs to prevent their scapes or running away, though not so big as those into which they were cast at night when they returned into pris'en. Their fetters or bolts are oftentimes in ancient writers (peradventure from the form of their links) termed *Annuli*, and themselves said to have *pedes Annulatos*. They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Juvenals* Epitheton, *Inscripta Ergastula.*

*Quem mirè adficiunt inscripta Ergastula.*

The labours in which they were employed, were, sometimes digging, delving, and tilling the ground: sometimes digging of quarry pits, sometimes grinding with an hand-mill, sometimes drawing water: This latter kind

of

of punishment in *m Suetonius* his phrase is *Antliam dam-  
nari*. Those Criticks who for the word *Antlia* do substi-  
tute *Anticyra*, or *Andia*, or such like names of Islands, do  
utterly fail of the Authors scope and drift ; for the pu-  
nishment which *Suetonius* speaketh of, is some strange or  
unusual punishment : now seeing that Senators them-  
selves were often exiled, it could not seem strange that  
Roman Knights should be banished into forraign lands ;  
but this was a matter unusual, and unheard of, that a  
Roman Knight should be employed in such drudgeries.  
Again, the word *Antlia* fitly denoteth such a kind of la-  
bour, whether we respect its Etymologie *ἀντλία* *ἀνθάριον*, or  
its signification in Latine Authors, it being used by them  
to signify a great bucket or water scoop to draw up water.

Thus *Martial*. *Curtalaboratus antlia tollit aquas.*

The hand-mill is often exprest by the Latine word *pi-  
strinum*, a word frequent in Comical Authors. It much re-  
sembled our *Bride-well*, or place of correction, being cal-  
led *pistrinum à pinsendo*, from pounding. For before the  
use of mills was known, the Romans did pound their  
corn in a great morter, calling the place where they  
pounded it *pistrinum* : whereupon our hand-mill hath  
retained the same name to this day. And because of the  
great pains that men did suffer in pounding, as likewise  
the strict discipline used towards servants thus punished  
( for *n* their neck was thrust into a certain wooden En-  
gine called *Pansie cape*, made for the purpose, lest haply in  
time of grinding they might eat of the meal) hence grew  
a custom among them, that when a servant had offended  
his master, he would menace him in this manner, *In pi-  
strinum te dedam*, I will cast thee into *Bride-well*. The pu-  
nishment *Metallum* was not much unlike the digging in  
mettal-mines, and working in mettal houses, it appeareth  
not only to have been a base and servile, but also a very  
laborious and painful work ; whence it was esteemed a  
grievous punishment to be adjudged to metall works, or  
cast into a metall house. And either by the increase of  
such

*m Suet. Tib.  
c. 51.*

*n Turn. adv.  
l. 4. c. 13.*

<sup>o</sup> Vid. Cœl.  
Rhod. l. 10. c. 5.

<sup>p</sup> Tertul. Apo-  
log. c. 44.

<sup>q</sup> Plin. l. 18.  
c. 3.

<sup>r</sup> Cœl. Rhod.  
l. 7. c. 13.

such mens pains, or for to keep them from escapes, they were enforced to work with their fetters and gyves about them, as is implied by <sup>o</sup> Ulpian, who makes the difference between these two phrases, *Damnari in metallum*, & *Damnari in opus metalli*, to be thus; that the first sort did wear heavier and greater fetters than the last. How true the difference is, I leave it to the enquiry of others, but that it was a great and infamous punishment <sup>p</sup> Tertullian witnesseth, in that speech of his against the Heathen people, *De vestris semper astanti carcer, de vestris semper metella suspirant*. Sometimes there was only ignominy and disgrace intended in their punishments, of which sort was the bearing up and down the Roman *furca* in the Market place, or elsewhere in publike view, wheroft I have spoken in the Chapter of *Furca*, likewise a branding of the malefactor with some infamous letter in the forehead or hand, or some other part of the body: whence <sup>q</sup> Pliny calleth such servants *Inscriptos*. Generally they are called *Stigmatisi*, from *stigma*, which signifieth to brand with marks; as *Nebulo stigmatisu*, a rogue burnt in the hand, or any way marked; sometimes such are called *Literati*. The *Athenians* being enemies to the *Samii*, as often as they took them captives, they did use thus to burn them for rogues, which occasioned that proverbial scommee, *Samius neminem esse literatiorem*.

Sometimes besides the disgrace, there was also toilsom pains, as appeared by their *Ergastula*, and sometimes to their pains, stripes added: Though I deny not, but that many times, correction with stripes was a preparation for death it self. This correction by stripes was twofold, either it was *Verberatio*, or *Flagellatio*: The first was with rods called *Virga*; the other with scourges called *Flagella*. That there was a difference between *Virga* and *Flagella*, is plain by *Tully*, where by way of Irony he saith, *Porcia lex virgas ab omnium civium corpore amovit, hic misericors flagella resultit*. Both of them were counted servile, so that freemen were ordinarily exempted from them, as appeareth.

— m Ad

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*m Ad necem operire loris. San. loris liber?* *m Ter. Adelph.*  
Horace also intimating the servile condition of *Merva*, *act. 2. scen. 1.*  
faith:

*n Sectus flagellis hic triumviralibus.*

*n Epod. Od.*

They are called *Flagella triumviralia*, from those *Triumviri* who formerly I translated Sheriffs, because to them belonged the oversight of this punishment. *Eustathius* calleth them *flagellaris pastrus*, i.e. *Flagratalaria*, *sentaxillata*, because to augment the pains, they did usually in these scourges tie certain huckle-bones, or plummets of Lead at the end of the whip-cords, or thongs, and such scourges they termed *Scorpiones*. The cruelty of the scourges was such, that they many times died under them. Thus have we generally and briefly touched the more usual Punishments. But sometimes wrongs done between party and party, were punished with a retaliation of the same kind: according to that, *A tooth for a tooth, and an eye for an eye*. And this kind of punishing was called *Talio*. Yet we are to know that a simple retaliation, such as is termed *Talio Pythagorica*, was not always exacted, but sometimes satisfaction might be *o A. Gel. l. 11.* wrought by a commutation of the punishment. *o Reus c. 1.* *habuit facultatem paciscendi, & non necesse habuit pati* *lionem, nisi eam elegisset.* It were endless to speak of all their Punishments, and haply not worth the labour, their very names being sufficient Comments to explain them. As *Effusio oculorum, Amputatio mannum, Crucifragium, Talifragium*, and such like.

*Tholosan. in  
syntag. jur.  
univ. c. 11. l. 31.*

D d LIB.



## LIB. III. SECT. IV.

## Of the Roman Laws.

## CAP. I.

## De Legibus.



Aving spoken of the Civil Magistrates, and Punishments, we will now also descend unto the Civil Law: where first we will note among other differences between *Jus* and *Lex*, principally these.

1. *Lex* signifieth only the law, but *Jus* signifieth also that place, wheresoever

the Law of Justice was administred: not only if it were administred out of the Tribunal in the *Comitia*, or great Hall of Justice, which was termed by the Lawyers, *Agere pro Tribunalis*: but also if it were administred in a private house, or in ones journey, so that it were by a lawful Magistrate, and out of a curule chair; and this was termed by the Lawyers, *Agere de plano*: and hence is it, that *In ius vocare* signifieth to cite one into the Court. 2. *Lex* signifieth only the written Law, but *Jus* signifieth equity, so that *bJus permaneat semper nec unquam mutetur, Lex vero scripta sapientis*. Notwithstanding these two words used promiscuously one for the other, and therefore leaving all curious differences between those words (whether the Roman laws were truly *Jura* or *Leges*) thus much we may observe, that the laws used among them were of three

<sup>a</sup> Sig. de jud.  
l. 1. c. 7.

<sup>b</sup> F. Sylv. in  
erat. pro Mil.

three sorts : either they were such as were made by several *Roman Kings*, and afterward collected and digested into a method by *Papirius*, & from whence it was called *Jus Papirianum* : or they were such as the *Decem-viri* brought from *Athens*, and were called *Leges 12. tabularum* : or lastly they were such as the *Consuls*, the *Tribuni plebis*, and such Magistrates did prefer, whence every several law bore the name of him or them that preferred it. My purpose is to explain only this latter sort, and that not all of them, but such alone as I have observed in *Tully*, and that chiefly in his *Orations*. My proceeding shall be first to shew the divers kinds of Judgements : and then to descend unto the laws themselves, beginning with those which shall concern the *Roman Religion*, and then proceeding to the others which concern the Common-wealth.

C A P. 2.  
*De Jure publico & privato.*

The cases to be decided by the law were either publicke

or private, & accordingly were the judgements, *d vel d* <sup>e</sup> *Sig. de jure*  
*privata, in quibus jus suum privatum quisq; persequebatur: Rom. 1. 2. c. 18.*  
*vel publica, in quibus injuria qua resp. facta erat vindicabatur.* The private (as we observed before) belonged unto the *Pratori urbano & peregrino*, that is, the L. chief Justices, who did either give judgement themselves, and then were they said *judicare*, or they did appoint others to sit in judgement, & then were they said *Judicium dare* : in the absence of the *Prator* there were ten cal'd *decem-viri* <sup>f</sup> *Rosin. ant.*  
*lisibus judicandis*, i.e. *ff super listes judicandas*, who in the same manner as the *Prator*, might either give judgement themselves, or appoint others, for they were even in one place and instead of *Prators*. Those which either the *Prator* or the *Decem-viri* did appoint to debate the cases under them, were taken out of the *Centum-viri*, that is *b* out of certain Commissioners chosen for that pur-

pose, namely three out of every Tribe or ward : so that in all, the number of them amounted unto an hundred and five : but in a round reckoning they went for an hundred : and from a certain spear that was wont to be erected up in token of this court, hence was the *i* court called either *Pretoria Decimviralis*, or *Centumviralis* *b. s.t.a.* In some cases their form of acquittance was thus, *k* *Secundum illum item do, whence l Tnllly faith, quo minus secundum eos lis detur, non recusamus*, that is, we do not deny but they may be acquitted. Those that were cast in their suit, were said *Lite vel causa cadere*. The publike causes belonged ordinarily (except the *Consuls*, the *Senate*, or the people did interpose their authority) unto those whom we called *Praetores Quaestores*. Some have thought them to be the same with those whom *m Rosinus* calleth *Judices Quaestionum*, and that I think not altogether upon unsure grounds : first because most of these publike cases which they termed *Quaestiones* had their *n* several *Praetors* to enquire them, whence they were called *Quaestores*, and may in my opinion be called *Judices quaestionum*, especially seeing that those which would have them be different officers, cannot well shew the differences of their offices. Now as the *Urban Praetor* had a hundred Commissioners under him, so had these *Praetores Quaestores*, certain Judges chosen *o* by the *Urban*, or *foreign Praetor*, when he took his oath : and that not according to his pleasure as many as he would, or whom he would, but sometimes more, sometimes fewer, sometimes only out of the *Senators*, sometimes only out of the order of *Roman Gentlemen*, sometimes out of both, sometimes also out of other orders, *p* according as the law appointed, which oftentimes varied in those points. The Judges how great soever the number was, *q* were called *Judices selecti*, and were divided into several companies called *Decuriae*. These Judges were upon any citation from any of the *Praetors*, to give their assistance in the Court upon the day appointed by the *Praetor*. Now the manner how

*i* Sig. de jud.

*l* 1. c. 28.

*k* Sig. de jud.

*l* 1. c. 29.

*l Cic. pro Q. Ros. io.*

*m* Rosin. ant.

*l* 2. c. 18.

*n* Sig. de jud.

*l* 2. c. 4.

*o* Sig. de jud.

*l* 2. c. 6.

*p* Sig. ibid.

*q* Sig. de jur.

*Rom. l. 2. c. 18.*

they

they did proceed in their judgement, followeth in the exposition of one of the Laws, and therefore I will refer the reader thither. Only let him by the way understand, that whereas *Tully* is quoted in every law, it is not so much for the proof of the law, as to signify that he in that place maketh mention thereof. For the proof of the laws I refer the Reader to *Rosinus* and *Sigonius*; touching the expositions, my marginal quotations do prove sufficient.

## C A P. 3.

*De legibus religionem spectantibus.**Lex Papiria.*

**L.** *Papirius Trib. pleb.* established a law touching the consecration or hallowing of places, that it should be unlawful for any to consecrate either houses, grounds, altars, or any other things, *In iussu plebis*, that is, without the determination of the Roman people in their assemblies, called *Comitia Tributa*, which determination was always termed *plebiscitum*.

*Roscia lex.*

**L. Roscius Otho. Trib. pleb.** preferred a law, that whereas heretofore the Roman Gentlemen did stand promis-  
cuously with the commons at their theatral shews, now there should be fourteen benches or seats built for those Roman Gentlemen which were worth *H. S. quadriginta*, that is, about 3125*l.* of our English money. As for other Gentlemen, whose substance was under the rate, they had a certain place allotted them by themselves, with a punishment imposed upon them, if they offered to come into any of those fourteen benches.

Here we must note that this character *H. S.* standeth for a silver coin in *Rome*, called *Sestertius*, and is by *Roscius* in this place improperly used for *Sestertium*; for this Character *H. S.* is by our printers false printed, the true character *r* being *L. L. S.* signifying *duas libras* (as the two *L. L.* do intimate) and *Semissum*, which is intimated by *Fr. Matur. in Phil. 2.*

the letter *S.* Where if *libra* doth signify no more then the *Romans* coyn called *A. S.* then is this opinion touching the characters *L.L.S.* easie to be confirmed. For divers authors rendering a reason of the name *Sestertius*, say it was so called *quasi Semitertius*, that is, such a coyn as containeth *Duos solidos e sses & semissim.* This *Sestertius* was such a common Coyn among the *Romans*, that *Nummus & Sestertius* became at length one to be used for the other, *u Mille huiusmodi sestertii vel nummi faciunt unum sestertium in neutro genere, & conficiunt plus minus viginti quinque coronas.* According to which rate, *quadragesita sestertia* amounteth to 3125. and every particular *sestertius* is according to this rate, in value three half pence farthing *q.*

And here we may fitly observe the art of numbring by these *Seftences*, which consisteth in three rules. First, if the numeral or word that denoteth the number be a noun adjective agreeing in case, gender and number with the substantive *sestertius*, then it signifieth precisely so many *sestertii*; for example sake; *Decem sestertii* do signifie so many times 1. ob. *q. q.* 2. If the numeral being an adjective, and of a different case, be joyned with *Seftertium* in the genitive case plural, then doth it note so many thousand *Seftertii*; For example, *Decem sestertium* signifieth ten times 7. 1. 16. 5. 3. *d.* Thirdly, if the numeral joyned with *Seftertium* be an adverb, then it signifieth so many hundred thousand *sestertii*. *ex. gra. De cies sestertium* do signifie ten hundred times 7. 1. 16. 5. 3. *d.* Yea the numeral being an adverb, is sometimes put simply by it self, without the addition of any other word to signifie in the manner, the genitive case *Seftertium* being understood. For the better conceiving hereof the former example may be thus set down.

Decem se- stertii.	10. <i>Sestertios</i>	10000.1.10.5.6.0.0.0.
Decem se- stertium. <i>Valent.</i>	10. <i>Millia sestertium.</i>	0078. 02. 6. 0. 0.
Decies se- stertium.	10. <i>Centena. Millia se- stertium.</i>	78112. 10. 0. 0. 0.
Decies.	<i>De nostro</i>	

*Clodia lex.*

*Publius Clodius Trib. Pleb.* made a law, by vertue where-  
of the Priest called *Pessinuntius sacerdos* ( from the place  
where he did first exercise those holy rites in the honour  
of the mother Goddess) should be deprived of his Priest-  
hood, and the temple built in the honour of this God-  
dess should be bestowed upon *Brosigarns of Gallo Gracia*.

*Domitiae lex.*

*Cn. Domitiae Abenobardus Trib. Pleb.* enacted a law, *Cie. Agric.*  
that the Colledges of Priests should not as they were  
wont, admit whom they would into the order of Priest-  
hood, but it should be in the power of the people. And  
because it was contrary to their religion, that Church-  
dignities should be bestowed by the common people,  
hence did he ordain that the lesser part of the people,  
namely seventeen Tribes should elect whom they  
thought fit, and afterward he should have his confirma-  
tion or admission from the Colledge.

*Lex incerti nominis de vacatione sacerdotum.*

*Cicero* in his orations mentioneth a law ( not naming  
the author thereof ) whereby the priests were priviledged  
from their service in all wars, except only in uproars  
or civil tumults, *x* and these priviledges were termed  
*Vacationes.*

*Cic. Phil. 8.  
& pro Font.*

*x B. Latom. in  
Phil. 5.*

## C A P . 4 .

## De civitate &amp; jure civium Rom.

Cic. pro Rab.  
& sape alias.

**M.** *Forcias* *lex de civitate.*  
*Forcias* *Trib.* *Pleb.* established a law, that no Magistrate should beat any Roman Citizen with rods.

## Lex Semproniana.

Cic. pro Clu-  
entio, & sape  
alias.

y P. Ramus in  
orat. pro Rab.

z F. Sylv. in  
orat. pro  
Cluentio.  
a J. Camer.  
in orat. Cic.  
pro L. Flac.  
b F. Sylv. in  
orat. pro  
Cluentio.

Cic. pro Balb.

*C. Sempronius Gracchus Trib. pleb.* preferred a law whereby he disabled the Magistrate from punishing any Roman Citizen either with rods or with his ax, that is, with death, without the allowance of the people: Secondly, by virtue of this law, if any Magistrate did condemn any Roman Citizen *Indicta causa*, he should be liable to the judgement and censure of the people. A third clause to this law was, *Ne quis coiret, conveniret, quo quis iudicia publico circumveniretur Indicta causa*. He was said to be condemned *cansa indicta*, which was condemned before he had spoken for himself. Although *y Indicere pro non dicere*, *scit & invidet pro non videre vix reperiatur*, *tamen indicium & invidum, pro non dicto & non viso, sape reperiuntur.* *z* They were properly said *Coire*, which did work under-hand against a man, that he might be condemned; we may translate it in this place, to *Conspire*. *a* The verb *Circumvenio* doth commonly signifie as much as *Circumscribo*, to deceive or cheat one: but in this place to oppress one with false judgement procured by bribery or conspiracy.

## Lex Papia de peregrinis.

The privileges of the Roman Citizens became so great, that almost all the inhabitants of the confederate nations, would forsake their own dwelling, and use means to become free denizens in the Roman City; insomuch that the Embassadors of the allies and associates did grieve much and complain of the loss of their inhabitants: whereupon a law was made by *Papius*, that all foreigners and strange comers should be expelled out

out of the City. To the same effect was *Lex Junia*, and also *Licinia Mutilia de peregrinis*: the first being preferred by *Mar*: *Junius Pennus*; the second by *L. Licinius Crassus*, and *Q. Mutilus Scavola*.

*Servilia lex de civitate.*

*C. Servilius Glancia* preferred a law, *Ut si quis Latinus*, if any of the Latine associates could prove an action of bribery against a Senator, then should he be made a freeman of the City.

*Quis Latinus.*] Here we will observe with *c. Sigonius*, *c. Sig. de jur.* that the Latine people were not always called *Latini*, & *Italici*: *sed & socii & Latini socii & socii nominis Latini*, & *socii nomenq; Latinum, & socii ab nomine Latino, & socii ac Latinum dicti sunt.*

*Sylvani & Carbonis lex de peregrinis.*

*Sylvanus & Carbo* being *Tribuni pleb.* preferred a law, *Ut qui fœderatis civitatibus adscripti essent, si sum, cum lex cerebatur, in Italia domicilium habuissent, ac sexaginta diebus apud Praetorem profecti essent, cives Romani essent.*

*Adscripti.*] For the right understanding hereof we must note that there were *ad* two sorts of *Citizens*; some *cives nati*, that is, *Citizens by birth*, others *civitate donati*, that is, *Citizens by donation or gift*; who because they were added unto, and registered with the first sort of *Citizens*, were thence called *Adscripti cives*.

*Professi apud Praetorem.*] This verb *professi* is sometimes *c. Comitiale verbum*, and signifieth as much as *profiteri nomen*, that is, to render ones name unto a *Magistrate*; and this construction it beareth in this place.

*Lex Cornelia de Municipiis.*

*L. Cornelius Sylla* preferred a law, that all *Municipall States* should lose their freedom in the *Roman City*, and also their priviledge of having commons in the *Roman field*.

*Gellia Cornelia lex.*

*E. Gellius Publicola*, and *Cn. Cornelius Lentulus* being *E c Consuls*,

*Cic. offic. l. 3.*

*Cic. pro Balb.*

*Ital. l. 1. c. 2.*

*Cic. pro Ar- chia.*

*d. P. Sylv. in orat. pro lege Manil.*

*e. P. Ramus in orat. Cic. Agr. 2.*

*Cic. pro Dom.*

*Cic. pro Balb.*

*Consuls*, decreed a law, that all those private persons upon whom *Cn. Pompeius* in his wisdom should bestow the freedom of the Roman Citizens, should ever be accounted free Denisons.

## C A P. 5.

## De legibus ad comitia spectantibus.

## Ælia lex.

Cic. multis in locis.

**Q.** *Ælius Petrus* asked a law in time of his Consulship, *ut quoties cum populo ageretur*, that is, as often as any Roman Magistrate did assemble the people to give their voices, the *Augures* should observe signes and tokens in the firmament, and the Magistrate should have power *obnuncandi, & interdicendi*, that is, to gainsay and hinder their proceedings.

*Ageretur cum populo.* Here we may note the difference between these two phrases, *Agere cum populo* and *Agere ad populum*; *f* He was said, *Agere ad populum*, whosoever made any speech or Oration unto the people, and this might be done upon any day indifferently. But then only was it said *Agere cum populo*, when the people were assembled to the giving of their voices by a lawful Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done *g* but upon one of those dayes which they called *Dies Comitiales*.

*g* Bersm. de. ver. dier. ratim one ad fin. Ovid. Fast. Cic in suis orat. cap.

## Fusia lex.

*Pub. Furius* five *Fusius Philus*, being Consul, ordained a law, that upon certain daies, although they were *dies Fasti*, that is, Leet-days, yet no Magistrate should summon an assembly.

## Clodia lex.

*Cic. pro. Sext.* *P. Clodius Trib. Pl.* abrogated both those former laws, making it unlawful to observe signs and tokens in the heavens, upon those days when the Roman people were to be assembled: And secondly, making it lawfull to assemble

assemble the people upon any Leet-day whatsoever.  
*Gabinia lex.*

At first, for many years the Roman people in their assemblies did suffrage *Viva voce*, at which time many of the inferior sort gave their voices contrary to their wills, fearing the displeasure of those that were of higher place. For the better help in this point, *Gabininus* asked a law, that the people in all their elections might not suffrage *Viva voce*, but by giving up certain tablets, the manner whereof ha' h been formerly shewn; whence both this, and all other laws tending to this purpose have been called *Leges tabellariae*.

*Cassia lex.*

After *Gabininus*, *Cassius* also preferred a law, that both the Judges in their judgements, and the people in their assemblies should suffrage by rendring such tablets: <sup>b</sup> but this is to be understood only of those assemblies by wards called *Comitia Tributa*: wherein they treated of mulcts and mercements.

*Cælia lex.*

*Cælius Trib. pl.* established a law, that not only in mulcts and mercements, but also *In perduellionis iudicio*, that is, in taintments of treason against any person of State, (namely such as were *sacrae sancti*) or against the Common-weal, this *Tabellary* liberty should have place, when the people should judge thereof.

*In perduellionis iud.* [i] This word *perduellis* doth signifie an enemy unto the State, a traitor; and hence com- <sup>i Cœl Sec.</sup> eth this word *perduellio*, signifying not only the crime of <sup>Curio in orat.</sup> <sup>pro Milone,</sup> treason, but the punishment also due thereunto, k *Si* <sup>k Sig. de jud.</sup> *crimen quod erat gravissimum inter crimina, nempe imm.* <sup>l. 3. c. 3.</sup> *minus majestatis: si pena, qua erat acerbissima, nempe mortis.*

*Papiria lex.*

*C. Papiria Carbo Trib. pl.* perswaded that not only in their elections, but in the proposal of their laws also this suffraging by tablets should be used.

## Sempronia lex.

Cic. multis in locis. *C. Sempronius Gracchus* *Trib. pl.* preferred a law, that the Associates of *Latium* should have as great right of suffraging as the Roman Citizens.

## Manilia lex.

Cic. pro Mur. *C. Manilius* *Trib. pl.* preferred a law, that all those who were *Libertini*, in what Tribe or Ward soever, should have the right of suffraging.

## C A P. 6.

## De Senatu &amp; Senatoribus.

Cic. Ver. 7. *Q. Claudius* *Trib. pl.* perswaded a law, that no Senator or Senators father, should have any ship which should contain above three hundred of those measures called *Amphora*, deeming that sufficient for the transportation of their Corn from the Roman field. Secondly, by this law the Senators were forbidden the use of trading.

*Amphora* <sup>1</sup> *Alex. Gen. dier. 1. 2.c. 20.* *I. Alexander Neopolis* observeth two sorts of these measures, namely, *Amphora Italica*, containing two *Urnas*, and *Amphora Attica*, containing three *Urnas*: every *Urna* containing two Gallons and a Pottle. This in probability is understood of the *Italian Amphora*.

## Tullia lex.

Cic. Phil. 1. When as a custom had grown, that many of the Senators having by special favour obtained *Liberam legationem*, upon all occasions would abuse that their authority, procuring thereby their private gain, and the encrease of their own honour, then *M. Tullius Cic.* being Consul, laboured quite to take away these kinds of embassages, which though he could not effect, yet thus far he prevailed, that whereas in former times this *Liberum legatio* being once obtained, was never (not through a mans whole life) taken from him again: yet afterward

ward this authority should never be granted to any, longer then the space of one whole year.

*Legatio Libera*] We may observe in antient Authors three severall kinds of embassages : The one, which is a message sent from the Prince or chief Governours of one Country unto another, and that is expressed commonly by this one word *Legatio*, without any addition thereunto ; sometimes it is called *Legatio mandata*. The second, which is when one purchaeth the title of an Ambassador, thereby the more honourably to perform some vow made, whence it was called *Legatio votiva*. The third is the office or title of an Ambassador, granted upon special favour unto a Senator, that he might with greater authority prosecute his private suits in law, or gather up his debts in that Province whither he went ; this last was termed *Legatio Libera*. All three sorts are briefly touched by *m. Toxita*.

*m. M. Toxita, in  
orat. Phil. 1.*

C A P. 7.  
*De Magistris.*

**L**. *Cornelius Sylla* being *Dicitor*, made a law, that all such as would follow him in the Civil War, should be capable of any office or magistracy before they came unto their full years. A second part of this law was, that the children of such as were *proscripti*, should be made incapable of the Roman Magistracies.

Before they came to their full age ] For *L. Villius* preferred a law, whereby he made such as were under age, to be incapable of the City-preferments, and those he accounted under age, who had not attained unto that number of years which he had prescribed each severall office : and this law was termed *Lex annalis*.

*n. P. Ramus  
in Agric. 2.*

*Proscripti* were such persons as were banished. For the fuller understanding, look *Proscription* in the tract of *Punishments*. *Julius Caesar* did contrary to this law, *Admisit ad honores & proscriptorum liberos. Sueton. Jul. 41.*

## Hircia lex.

Cic. Phil. 13.

*A. Hircius* made a law, that all those that followed *Pompey*, should be made incapable of all places of office.

Cic. Phil. 2.

*L. Cornelius Sylla* finding the *Prætores*, that is, the L. chief Justices not to give sentence always according to equity, yea sometimes to go quite contrary to their own Edict, made a law, that every L. chief Justice should administer justice according to that his first Edict hanged up at the beginning of his office. An addition unto this law was, that the L. chief Justice should not be absent out of the City above ten days.

## Clodius lex.

Cic. pro Sext.

In former times it was lawful for either of the Censors to censure whom he pleased, and how he pleased, except his fellow-Censors did plainly gainsay it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. pl.* made a law, that the Censors should not over-skip any in their election of Senators; neither should they brand any with disgrace, except such as had been accused unto them, and been condemned by them both.

## Valeria lex.

Cic. Verin. 4.

The office of a Dictator at the first institution continued but six moneths space, until *L. Valerius Flaccus* being *Interrex*, in the vacancy of the Consuls, preferred a law, that *L. Cornelius Sylla* should be a perpetual Dictator.

## Cornelia lex.

Cic. 3. de leg.

*L. Cornelius Sylla* in the time of his Dictatorship, did by virtue of a law preferred by him, clip the authority of the *Tribuni pl.* disabling them of bearing any office after the expiration of their Tribuneship, taking away their authority of preferring laws, of using any solemn speech, or publick oration unto the people, of hearing appeals, of hindring any statute or decree tending to the hurt of the populace.

## C A P . 8 .

## De legibus.

**Q** *Cæcilia Didia lex.*  
*Cælius Metellus, & Titus Didius* being Consuls, forbade that *Una rogatione*, that is, in one and the same bill many things should be proposed unto the people ; left by that means, the people by granting the whole bill, might grant something which they would not, or in denying the whole bill, might deny some particular clause, which by itself they would have accepted. Moreover these two consuls ordained, that before a law should be asked in the assemblies, it should be promulgated, that is, hanged up to the publick view of the people three Market days.

Cic. pro dom.  
sua ad ponif.

## Junia Lacinia lex de trinundino.

*Junius Silanus, and L. Licinius Murina* being Consuls, established that law of *Cæcilius* and *Didius*, annexing a more severe punishment for the breakers thereof.

Cic. Phil. 5.

## Clodia lex de intercessione.

*P. Clodius Trib. pleb.* made a law, that the *Trib. pleb.* should have full authority and power to propose laws : neither should they be hindred by the *Intercession*, that is, gain-saying of any.

Cic. pro Sext.

## Licinia Ebantia lex.

*Licinius and Ebanius* being *Trib. pleb.* ordained, that if any preferred a law touching the oversight, the charge, or cure of any busines in hand ; neither he, nor any fellow-officer with him, nor any allied unto him, should have this oversight or charge committed to him.

Cic. pro domo  
sua ad Pontif.

## C A P . 9 .

## De Provinciis.

## Sempronia de Provinciis.

*C. Sempronius Gracchus Trib. pleb.* ordained, that the Senate every year before the election of their Consuls, should

Cic. de prov.  
consularibus.

should as it seemed best to them, appoint out what provinces the Consuls now to be elected, should after the expiration of their office go unto ; for which Provinces afterward the Consuls designed should cast lots. Another clause to this law was, that whereas in former times by a decree from the Senate, it was lawful for the Tribunes to hinder the Roman assemblies, henceforward they should have no authority.

*Cornelia de Provinciis.*

• Cic. ep. 9. ad  
Lentul.

*L. Cornelius Sylla* being Dictator, preferred a law, that whosoever went into a Province *cum imperio*, *tam in illud imperium retineret, quoad in urbem reversus esset* : whereas in former times his rule and government was to be resigned at the expiration of a set time appointed ; yea although no successor were sent, yet could he not continue there *cum imperio* without a new Commission. A clause added unto this clause was, that after the coming of any new President or Governour into the Province, the old Provincial President should depart within thirty days.

p Sig. de jure  
Prov. 1. 3. c. 13. *Ese cum imperio*] that is, *p Exercitus praefesse, q vel habere jus administrandi, & suis auxiliis gerendi belli.*

q Sig. ejusd.

l. c. 6.

Cic. pro L.

Mur.

r Melanct. in  
orat. pro Mur.

*Titia lex de Provincia.*

*Titius* or (as some say) *Decius*, preferred a law, that the Provincial Treasurers called *Quæstores*, should cast lots for their Provinces : whence *Tully* in the Oration now quoted, inferreth, that although *Ostia* being the better province fell upon *Servius Sulpitius*, yet insomuch as it fell *Lege Titia*, that is by casting lots, he could not therefore challenge any superiority above *L. Murana*, *sed utriusq; nomen consedit in Quæstura*, that is, their fame and renown was equal in their *Quæstorship*.

*Julia lex de Provinciis.*

Cic. Phil. 1. *C. Julius Caesar* established two laws touching the Roman Provinces : one, that no *Prætor* should govern a Province above twelve months ; nor *Proconsul* above two years. The several heads or clauses of his second law could

could not all be found out, but those which have come to light are these: First, that *Achaia, Thessalia*, and all *Grecia* should be free; neither should any Roman Magistrate sit in judgement in those Provinces ( *Cic. pro domo.* ) Secondly, that the Provincial Governors and their *Comites*, that is, assistants or attendants, should have hay, and all other necessaries provided them on the way, by those Towns and Villages through which they passed, ( *Cic. in Pison.* ) Thirdly, that the Provincial Magistrates at their departure should leave a book of their accounts in two Cities of their Province, and likewise should send a copy of their accounts unto the Roman Treasure-house. ( *Cic. in Pison.* ) Fourthly, that it should neither be lawful for the People to bestow, nor for the Provincial Magistrate to receive *Aurum coronarium* unless it were in a triumph. ( *Cic. in Pison.* ) Lastly, that it should be unlawfull for the Provincial Magistrate, without the allowance of the People or the Senate, to depart out of their Province, to lead forth any army, to wage war, or to go into any forraign Country. ( *Cic. in Pison.* )

*Aurum Coron.*] f There was a custom among the *Romans* in times of victory, to present unto the L. General *Aurum Coron.* f *Lipf. de Mag. Rom. l. 3, c. 9.* Coronets of Gold, instead whereof the after-ages presented a certain sum of money, which was thence called *Aurum coronarium*.

*Vatinia de Provinceis.*

*P. Vatinius Trib. pleb.* procured a law, that *Julius Caesar* should have the government of *Gallia Cisalpina* and *Illyricum* for five years space, without any decree from the Senate, or casting lots. Secondly, that they also should go as Legates, or L. Deputies unto *Caesar*, without any decree from the Senate, whosoever were nominated in that law. Thirdly, that *Caesar* should receive money out of the common Treasure-house towards having an army. Lastly, that he should transplant a Colony unto a certain town of *Cisalpina Gallia*, called *Novocomum*. *Cic. pro Balb.*

Ff

*Clodius*

## Clodia de Provinciis.

Cic. pro domo. P. Clodius being *Trib. pleb.* procured a law, that the government of *Syria, Babylon and Persia*, should be committed to *Gabinius*; the government of *Macedonia, Achaea, Thessalia, Grecia*, and all *Boatia*, should be committed unto *Piso*; and they should receive together with an army, money out of the common Treasury towards their journey.

## Clodia altera de Cypro.

Cic. pro. Sext. P. Clodius preferred another law, that the Island *Cyprus* should be made a Province. That *Ptolomaeus* the King of *Cyprus* sitting in his purple, with his Scepter and other his princely ornaments, *Praconi publico subjiceretur, & cum bonis omnibus publicareetur*, that is, should himself with all his goods be sold by a common Crier. That *M. Cato* being then Treasurer, *cum jure Pratorio, adiecto etiam Questore*, having by commission the office of a L. chief Justice, and another Treasurer to accompany him, should be sent unto the Island *Cyprus*, both to make sale of the Kings goods and estate, and also to bring back the money. Lastly, it was decreed by this law, that those who lived in exile at *Byzantium*, being condemned for some capitall crime, should be brought back unto the City under the name of Romans.

*Praconi publico subjiceretur : ]* For the better understanding of that phrase, we are to understand the manner of port sale among the Romans ; which we may read in *Sigonius* thus. Those things were rightly sold in port-sale, which were publikey sold *per Praconem sub hasta*, that is, by the cryer under a spear sticke up for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take *publico praconi subjici*, and *hasta subjici*, to signifie one and the self-same thing, namely, to be set at sale : and t *Cicero* useth almost the self-same phrase, *bona C. Pompeii, voci acerbissima subiecta praconis*. This kind of sale was termed *Auctio* : because, as *Sigonius* saith in the same place, to him the goods

goods were sold, *Quis plurimum rem angere*, that is, which would bid most for it: and hence is the seller thereof termed *Auctor*, as *u* Cic. *Id quod a malo auctore emissent*, <sup>a</sup> Verrin. 7. that is, that which they had brought of one, which had no authority to sell: and from this custom of setting up a spear in this kind of sale, this word *Hasta* alone is used, to signify port-sale, as *x Hasta Caesaris*, the sale of *Caesars* goods. Those who bought these goods, *y Tully* calleth *Settores*, *z quia spem Incri suis settabantur*. In such kind of sales, a catalogue, or note of the goods to be sold was hanged up in tables, for the publick view of passengers. Whence such goods were termed *suspensa bona*. And if any friend would redeem the goods, then did he *dejicere libellos*, that is, put in bands and security to answer the matter. The phrase is used by *Tully*, *Cic. pro Quintio*. And also by *Seneca*, *de benef. lib. 4. cap. 12. Suspensis amici bonis libellum dejicio, creditoribus ejus me obligazurus*. It is thus explained by *Turnebus*, *adv. lib. 12. c. 9.* If the sale proceeded on, then such as proposed to be chapmen signified their desire by holding up their finger: whence *Digitum tollere* signifieth the desire of buying such goods. *Alex. ab Alex. lib. 4. cap. 26.* <sup>x</sup> Cic. Phil. 8. <sup>y</sup> Cic. in Ver. <sup>z</sup> Cic. de jud. l. 2. c. 24.

CAP. 10.  
De Legibus Agrariis

Those laws were termed *Leges Agraria*, which did concern the division of the publick, or common fields: And these were either given by *Romulus* and other Kings, or taken from the enemies, or from private men which had made inclosures: or lastly, bought out of the common Treasury, *a* *Vide Sigan.*

*Sempronius lex Agraria.*

*b* *Titus Sempronius Gracchus* *Trib. Pl.* preferred a law, *b* *Cic. pro Sext.* which forbade that any of the *Romans* should have to his own part above five hundred acres of the common fields, the one half of which it was lawful for his son to enjoy.

Sig. de jnr.  
Ital. l. 2. c. 2.

joy. If it had so happened, that any should enlarge those common fields, three surveyors called the *Triumviri agro dividendo*, did mark out which was common, which private ground. Moreover it was by this law provided, that the money of King *Attalus*, who made the people of *Rome* his *heirs*, might be bestowed upon those citizens, which had by this law obtained a part of the common fields, to the buying of instruments for husbandry. Moreover that the Kings lands should be farmed out at a set rent by the *Censors*, whence an yearly tribute should be paid to the people.

*Cornelia lex.*

Cic. in Rul.

L. *Cornelius Sylla* being Dictator, preferred a law, that all the fields of those *Romans* which he had banished should be common. This publication is to be understood chiefly of those fields in *Thessalia*, near unto the City *Volater*, and the City *Fesula*, which grounds *Sylla* divided amongst his soildiers.

## C A P. II.

*Defrumentariis Legibus.*

Cic. pro Sext.

Rosin. ant.  
l. 8. c. 21.

T. *Sempronius Gracchus* being Tribune of the Commons, provided that a certain quantity of corn should monthly be given unto the poor sort at a low price, *Semisse & Triente*; that is, about six pence farthing a bushel: Hereupon was there a place appointed in *Rome*, for the keeping of this common corn, together with certain laws hanged up there called *leges frumentaria*. This place was called *Horrea Sempronisa*. The quantity of corn laid up in every City for this purpose is by the latter Lawyers termed *Canon*: as *Canon Alexandrinus*, *Canon urbis Rome*, &c. vide *Sax. de conviv. lib. I. cap. 35.*  
[*Semisse & triente*] It appeareth by the next law that *semifissis* in this place must signifie the same as *semis aris* doth there: Whereby we may note, that *semifissis* doth not always signifie the half part of the *Roman* coyn called

As,

As, but sometimes it signifieth a greater coyn, valuing almost our six pence.

*Clodia lex.*

*P. Clodius Trib. Pl.* ordained that that corn which heretofore was sold to the poor *scnis aris & trientibus in singulos modios*, that is, for sixpence farthing a bushel, should hereafter be given *gratis*, the charge and oversight of this dole was committed to *Sext. Clodius*. Cic. pro Sext. in Pison.

*Terentia Cassia.*

*M. Terentius* and *G. Cassius* being Consuls preferred Cic. Verrin. 5. & 7. a law, *Uti altera decuma à provinciis coemeretur, pretio in singulos modios H.S. trium constituto: Item ut civitatibus aequaliter imperaretur, pretio in singulos modios H.S. quatinus constituto.*

For the better understanding of this law, we must note *d* a threefold tithe paid by the Provinces. The first was *d* *Sig. de jur.* *1* the tenth part of the grain growing in the province to *Prov. l. 1. c. 1.* be paid in *gratis* and that was properly called *Decume*, or *fumentum Decumanum*, and those that took this tithe to rent, were called thence *Decumani*. A second sort of tithes was a certain quantity of corn taken up for the L. President or chief governour of the Province, to keep his house, and that was called *Frumentum estimatum*, that is, corn gathered by the way of taxation: for so this word *estimo* coming from *as* doth signify, *e* *Est autem frumentum ab are dictum, id quod vulgo dicunt appicare & taxare.* The third sort of tithes, was when the Senate finding scarcity of corn in *Rome*, did enjoyn the Provinces to sell them a quantity of corn at a price set down by the Senators themselves, and this corn sold upon injunction, if it was paid but once in the year, it was termed *Frumentum emptum*; but if in the same year a second sale was enjoyned them, then they called that second pay, *Frumentum imperatum*. In the first clause of this law by *[altera decuma]* is meant *Frumentum emptum*; in the second clause, by these words *[civitatibus aequaliter imperatur]* is understood *Frumentum imperatum*. e F. Sylv. in orat. pro Clu- entio.

## Lex Hieronica.

Hiero King of *Sicily* obtained a law, wherein was set down the quantity of corn, that the *Aratores* or country farmers should pay unto the *Publicani*, that is, those which received the tithes, together with the time of payment, and this price agreed upon.

## C A P. 12.

## De legibus sumptuariis sive cibariis.

<sup>a</sup> Struck. de  
conviv. l. 3. c. 3.

<sup>b</sup> Suet. Tib. 34.

In nantient times there was a commendable frugality among the *Romans* in their feasts, but after ages grew to immoderate excess therein; so that whole Goats and Boars, &c. were set on the table at one time. Such a hog thus dressed *Cincinnus* was wont to call *a Porcum Trojanum*, alluding to the *Trojan* horse; because the belly thereof was stuffed with variety of fowl and rabbets, and such like, as the *Trojan* horse was with armed men. This kind of excess *Tiberius Caesar* laboured to redress, by serving at his table cold half-eaten dishes at solemn feasts, using this proverb, *b Dimidiatus aper omnia eadem habet qua totus*. Hence also men of severe discipline enacted laws termed *Leges sumptuaria* or *Cibaria*, which prescribed a moderation, not only for the charges in their greatest feasts, that they should not exceed such and such sums of money, but also for the guests to be invited, that they should not exceed such a number. The chief of these laws were these that follow.

## Lex Orchia.

*C. Orchius* being Protector of the commons, by the consent of the Senate, the third year before *Cato* was *Censor*, preferred a law, whereby he only moderated the number of guests, without any limitation of the charges or superfluous expence at feasts.

## Lex Fannia.

Twenty two years after *Orchius* his law, *C. Fannius* being Consul enacted another for the moderating of expences,

pences, allowing *Non plures denis assibus* to be spent in their ordinary feasts: But upon those more solemn feasts dedicated unto *Saturn*, and from thence called *Saturnalia*; likewise when any publick games were exhibited by the Roman people, he then allowed *Centum asses*, ordaining that no other fowl should then be dressed but only one hen, and that not fatted for the purpose.

*Non plures denis assibus*] The *Roman coyn As* was so called *cognatis as*, because the matter thereof was *brass*; <sup>c</sup> *Varro. I. 4.*  
at first it consisted of a full pound weight; afterward <sup>d</sup> *de ling. Lat.*  
in the first *Punick war*, by reason of the scarcity of <sup>d</sup> *Plin. 35 c. 4.*  
money, they made of every pound of brass six of those coyns, each valuing as much as they did at first. In the second *Punick war* there were twelve made of every pound; at last by vertue of a law, which *Papirius* enacted, four and twenty were made of a pound: and so they continued; the value always remained the same, *videlicet*. ob. q. so that to allow but ten of these to a feast, seemeth a matter altogether uncredible; but consider with the frugality, the cheapness of those times, it may be granted for a truth; <sup>e</sup> for ten of these were the price of a sheep, <sup>e</sup> *A. Gel. 13.*  
and an hundred the price of one ox. <sup>e. 2.</sup>

#### *Lex Didia.*

Eighteen years after *Fannius*, *Didius* ordained that the former sumptuary laws shoule be of force, not only in *Rome*, but throughout *Italy*; Moreover that not only the feast-maker transgressing, but all the guests, should be liable to the penalty.

#### *Lex Licinia.*

*P. Licinius Crassus* preferred a law in manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, then made a new.

#### *Lex Cornelia.*

*Cornelius Sylla* being *Dictator*, ordained a law for the price of meats, so that he was thought by cheapness of victuals to increase rather then to restrain superfluities at feasts.

#### *Lex.*

## Lex Antia.

*Antius Refio* preferred an usefull law to moderate expences in feasting, which notwithstanding was violated, and in a manner abrogated by the contrary practice of the Citizens in general. For which cause, *Refio* afterward being invited, would never come to any feast, because he would not be an eye-witness of the contempt of that law which himself had caused. If any desire to see more laws of this nature, let him read *Stuc. conviv. lib. 1. c. 3. Aut. Gel. l. 2. c. 24.* And *Macrob. Saturn. l. 3. c. 17.*

## C A P. 13.

## Dere militari &amp; bellis.

Cic. pro leg.  
Manilia.

**A**. *Gabinius Trib. pl.* preferred a law, that the managing of the war against the Pirats should be in such manner committed unto *Pompey* for three years space, that over the whole Sea between *Hercules* his Pillars, and in the Maritime Provinces unto the four hundredth *Stadium* from the Sea, he should have power to command any Kings, L. Presidents, or whole Corporations to furnish him with all things necessary to that war.

## Manilia lex.

Cic. pro leg.  
Manilia.

**C.** *Manilius Trib. pl.* perswaded a law, that the managing of war against *Mithridates* should be committed unto *Cn. Pompeius*: That the whole Province where *L. Encellus* ruled, together with his whole army should be resigned unto him: Moreover, that *Bithynia* where *Glabrio* ruled should be added, together with all those bands and forces which he had upon the Sea against the Pirats, and all those Provinces over which the law *Gabinia* did entitle him Goverour, as *Phrygia*, *Licaonia*, *Galatia*, *Cappadocia*, *Cicilia*, *Colchis superior*, and *Armenia*.

C A P.

## C A P . 14.

De *Tutela*.

This word *Tutela* doth signify a wardship, guardianship, or protection of a child in his nonage : whereof *Camerarius* observeth four sorts, and we may with *Pedicularius* add the fifth. Either the overseers were appointed by will ; or else the next of the kin were overseers ; or the Magistrate did appoint whom he thought fit : and these three sorts <sup>g</sup> *Omphalius* calleth thus : the first *Testamentarium*, the second *Legitimam*, the third *Dativam*. The fourth sort *Camerarius* calleth *Tutela fiduciarium*, quia eorum est, qui emancipiati desier-  
tent esse agnati. The fifth <sup>b</sup> *Pellitarius* calleth *Tutela ho-  
norariam*, namely, when as the office of adguinistrati-  
on is committed to others, but yet certain chief overseers were appointed to see the will performed, who were cal-  
led *Tutores honorarii*. Where we must note, that the law provided overseers, not for children under age only, but for women also.

*Emancipiati desierent esse agnati* ] By the Roman law every son was in such subjection unto his father, that before he could be released of this subjection, and made free, he should by an imaginary sale <sup>k</sup> be sold three times by his natural father to another man, who was called by the lawyers <sup>l</sup> *Pater fiduciarius*, that is, a father in trust; yea, and be bought again by the natural fa-  
ther, and so manumised by him, and then he became free. The form of this kind of sale, or alienation, is set down more at large in the explanation of one of the laws that followeth, with an example not much unlike this. This imaginary sale was called *Mancipatio*, the children thus alienated from the father were termed *Emancipiati*, this form of setting free was termed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus ; That when any goods did fall unto a child thus alienated,

<sup>f</sup> *J. Camer.* in  
orat. pro *L.*  
*Flacco.*

<sup>g</sup> *I. Omphal.*  
in orat. pro  
*Cæcina.*

<sup>b</sup> *Pellitarius*  
pro *Cæcina.*

<sup>h</sup> *Cic. pro. Muri.*

<sup>i</sup> *Vid. leg. 12.*  
tabuli.

<sup>l</sup> *Sig. de jut.*  
*Rom. l. 1. c. 19.*

alienated, by the death of his father, then should not the oversight of this child fall unto the next of kin, termed *agnati*, but *Quoniam de sis esse agnatus*, that is, because he had in a manner lost his alliance with his kindred; therefore should the oversight of the child belong unto the father in trust, termed *Pater fiduciarius*, whence the guardianship it self was called *Tutela fiduciaria*.

*Lectoria lex.*

*Cic. 3. de offic.* This law made by *Lectorius*, provided that there should be overseers appointed for those which were distracted, or did prodigally waste their patrimony. For, as it appeareth by the common adage, *Ad Agnos & Gentiles deducendus est*, they did account all prodigals mad men: they meaning no more by that, than we do by our English proverb, when we say of a spend-thrift, Let him be begg'd for a fool. The reason of their adage was, because if any were distracted, by the Roman law his wardship fell *Ad Adnos & Gentiles*, that is, to the next of the kindred.

CAP. 15.

*De Testamentis.*

**B**efore we descend unto the laws themselves, we will explain those three divers sorts of Wills in use amongst the Romans; namely, *Testamentum calatis comitissum*: which was so called, because twice in the year in time of peace the Roman people assembled themselves together, to this end and purpose, that if any would make his will, the whole people might bear witness thereunto: These assemblies were termed *Calata comitia*. Secondly, *Testamentum in procinctu*, that is, when a soldier in time of war, ready to give battel, did call out three or four of his fellows, and in the audience of them did by word of mouth pronounce his last will and testament. Thirdly, *Testamentum per emancipationem familiae*, that is, by making over his goods and possessions under

a feigned form of sale, unto a second party, called *Heretis fiduciarius & imaginarius*, i.e. an heir in trust, who should afterward resign them unto the true and lawful heir; and this imaginary kind of sale was performed with certain solemnities *circa as & libram*, and also the sale it self was sometimes called *Nexus*, as likewise *Emancipatio*. Hence was the will sometimes called *Testamentum per as & libram*, sometimes *Testamentum per nexus*. For the proof of this which hath been delivered, touching the three sorts of wills, I will refer the Reader to *m Sig. de juce* *Si-  
gonius.*

*Furia lex.*

*C. Furiae Trib. pleb.* made a law, that it should not be lawful for any to give away in way of legacy unto any, except to the kinsmen of him which manumisfed him, or some other certain persons, *supra milie ases*, that is, above fifty shillings or thereabout, there going two *Ases & semis* to the making of one *Sestertius*.

*Voconia lex.*

*Q. Voconius Saxa Trib. pl. tulit legem, Ne quis census efficeret, virginem neve mulierem supra quadrantem suorum bonorum heredem institueret, plusve et quinque legares, quibus ad heredem, heredesve perveniret.*

*Census.* ] This word *Census* doth sometimes signifie all such as have tendred the just valuation of their estate unto the Censors: and then *In census* is opposite unto it; signifying such an one as hath not rendred his estate or name to be registered by the Censors. But in this place *Census* is taken for such a rich man whose estate was in the Censors book valued at one hundred thousand *Sestertios*. ( *Vid. Asconium in Verrem. 3.* )

*Supra quadrantem suorum bonorum.* ] That is, no woman should be heir to more than one quarter of such a rich mans goods. For the right conceiving of this, we must note with *n Latomus*, that the whole inheritance (were it never so great) was termed *As*, and that was divided into twelve parts, which the lawyers called *Unciae*.

Alex. Gen.  
dier. I. 1. c. 1.

Dua uncia dicebantur *Sextans*, tres *Quadrans*, quatuor *Triens*, quinque *Quincunx*, sex *Semifissis*, septem *Septunx*, octo *Bessis*, novem *Dodrans*, decem *Decunx*, undecim *Dennix*, Totum *As*, ut dictum est: Again, every *Uncia* was divided into six parts, called *Sextula*: *Dua sextula* *Duella*, tres *Semunciam facinus*. So then according to the lawyers (as Alexander obserueth) if there were one heir alone instituted, he was termed *Heres in Assem totum institutus*: if otherwise there were many co-heirs, then was it according as the Testator did appoint. Some were *ex Demuncia heredes*, that is, heirs to eleven parts of his goods, there being but one part bestowed from him: some were *heredes ex quadrante*, that is, heirs to one quarter of his goods: others were *heredes ex semuncia*, that is, they had the four and twentieth part: others were *sextula apersi*, that is, they had the threescore and twelfth part of the whole *As*, that is of the whole inheritance, be it more or less, &c. Here we must understand that there is great difference between these two phrases, *Institui heres in totum Assem*, & *ex toto Assi*. For all those which we nominated *Heredes*, whether it were *ex Dodrante*, *Quadrante*, *vel Semuncia*, or howsoever, yet were they termed *Heredes ex toto Assi*, that is, they were not *Legatarii*, such as received legacies. Now none can be said *In totum Assem instituti*, but he which is the alone and sole heir unto the whole.

## C. A. P. 16.

## De iuris capione.

## Atinia lex.

Cic. Ver. 3.

¶ Sig. de jur.  
Rouel. I. c. 11.

**A**tinus made a law, that the plea of prescription, or long possession, should not avail in things that had been stolen, but the interest which the right owner had in those stolen goods, should remain perpetual. The words of the law are these: *Quod surrepsum est, ejus rei aeterna auctoritas esset*. Whereby *panctoritas* is meant *jus dominii*.

domini. This crime of theft, as likewise of usury, was so odious unto the Romans, that whosoever was found guilty thereof, was condemned *q. Legi quadrupli*, that is, *q. F. Sylv. in 1 Verrem. 1.* to pay four times as much: whence the informers against such were termed *Quadruplatores*.

## C A P. 17.

*De Iudicibus, & Iudicis.**Lex accusatoria.*

**T**ully mentioneth a law termed *Lex accusatoria*, which *Cic. pro Mur.* in truth was no law, neither was there any author thereof: but there was such a received custom amongst the Romans, that the accuser should object against the party accused, not only the present crime then questioned, but all the scapes and faults committed long before, to the bettering of his matter: that at length this accusatory custom became in manner of a law, and so was called *Lex accusatoria*, *vid. Franc. Sylv. in orat. pro Mur.* Their custom also was to procure others to joyn with them in their accusations; those *Tully calleth Subscriptores*, because they did subscribe unto the accusation. *Alex. Gen. dier. I. 3. c. 5. / Cic. pro Mur.*

*Lex Servilia & Sempronius.*

Whereas *Sempronius* had preferred a law, whereby he took away the authority of sitting in judgement from the Senators, and appropriated it to the Roman Gentlemen, *Q. Servilius Capio* being Consul did afterward prefer another law, whereby the administration of judgement was divided between the Senators and the Gentlemen.

*Rupilia lex.*

*Rupilia lex veterat diebus triginta sortiri dicam.* ] Here *Cic. in Ver.* we must note with *Sigenius*, that this law was of force only in the Province of *Sicilia*: also that it is one *prov. I. a. c. 5.* thing *scribere dicam*, that is, to enter an action; another *sortiri dicam*, that is, by lots to choose the Judges, which was thirty days after.

*Livia lex.*

Cic. de orat.  
L. 3.

Though by virtue of *Servilius* his law, the Senators were made capable of the office of a Judge, yet they were not thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Drusus* ordain, that the Judges should be elected equally out of both Orders, namely, three hundred out of the Senate, and three hundred out of the Gentry.

*Plantia lex.*

Cir. pro Cor-  
nel.

*M. Plautius Sylvanus* preferred a law, that the number of Judges should be chosen, not only out of the Roman Senators and Gentlemen, but out of the Populacy also, namely, out of every Tribe fifteen Judges.

*Aurelia lex.*

Cic. in Verr.  
Expe.

*L. Anrelius Cotta* being *Prator* made a law, that the Judges should be elected out of the Senators, the Gentlemen, and those Martial Treasurers or Clerks of the Band called *Tribuni ararii*.

*Pompeia lex.*

Cic. in Pison.

*Cn. Pompeius Magnus* being *Consul*, ordained that the Judges should be elected out of the wealthiest Centuries, tying the election notwithstanding to those three degrees of people, namely, Senators, Gentlemen, and Martial Treasurers; also he added that the number of Judges to examine causes should be seventy and five.

*Julia lex.*

Cic. Phil. 1.

*C. Iulius Caesar* ordained, that the election of Judges should be out of the Senators and Gentlemen, only leaving out the Martial Treasurers, and this *Tully* calleth *legem Iudicariam Cesaris*.

*Antonia lex.*

Cic. Phil. 1.  
& 5.

*M. Antonius* tulit legem, ut *tertia judicium decuria d' Centurionibus, Ante signanis, Alaudis, Manipularibus fieret.*

*Judicium decuria:* When the L. chief Justice had taken his oath, he chose out some *ex certis ordinibus, non ex omni populo*, that is, out of such degree and place as the law required, to sit in judgement on those cases which were

were termed *causa publica* : and these judges he afterward divided into lesser numbers called *Decuris*. *Vid. Sig. de iur. Rom. l. 2. c. 12.*

*E Centurionibus.* ] *Centuriones* were Captains over an hundred footmen.

*Antesignani.* ] This word *Antesignanum* hath a double acceptation in the Roman histories. Sometimes *Antesignani* do signify the third part of the Roman Army : for all those soldiers that fought before the banners or ensigns, as they were called *Hastati* in respect of their weapon, so were they called *Antesignani* in respect of their ensigns before which they fought. The second part of the Army, as they were called *Principes* in respect of their prowes and valour, so were they called *Subsignani*, as fighting under the ensigns. The third part, as they were called *Triarii*, because they fought in the third, or reaward, so were they called *Postsignani*, as fighting behind the ensigns. Where we must not think, that those which were called *Antesignani* and *Subsignani*, were altogether destitute of ensigns among themselves : ( for every Maniple had his ensign ) but the Eagle and other chief ensigns were carried by the *Subsignani*, and in respect had to them they had their names. And hence ariseth the second acceptation of this word, namely, that all those soldiers of every Maniple, which stood in a front before their ensign were called *Antesignani*, and those were commonly the best soldiers in the company. See for the several proofs of this, *Lip. milis. Rom. l. 2. dial. 3.*

*Alaudis.* ] *Jul. Cesar* pressed a legion of soldiers out of *Gallic Transalpina*, all which afterward he made free of *Rome*. This legion he called *Legionem Alaudarum*, from the form of their helmets, which did resemble the head of the Lark, called in French *Alaude*. *Barthol. Latomus in Phil. 1.*

*Manipularibus.* ] Those Captains which governed a Maniple of Soldiers, were called *Manipulares*. *Fr. Maturantius in Phil. 1.*

## Lex Cincia de donis &amp; munieribus.

*M. Cincius* being protector of the Commons, *M. Cornelius Cetbegus* and *P. Sempronius Tuditanus* being Consuls, preferred a law, that no man should receive a gift or bribe from his client for pleading his cause. Of this we read in *Plautus*, and he called it *Legem muneralm*: also in *Tully de Senect.*

## Cornelia lex.

Cic. pro Clu-  
entio.

*L. Cornelius Sylla* preferred a law, that the chief Judge of the bench called *Judex Quaestionis*, should refer it unto the choice of the defendant, whether he would have judgment passed on him *Clam an Palam*, that is, (as *Sylvius* observeth) either by voices or by tables.

## Memnonia lex.

Cic. in Ver.

This law (made by *Memnonius*) provided, that no action should be entred against those who were employed abroad in businels for the Common-wealth. An addition unto this law was, that whosoever should *calumniari*, that is, forge an accusation against another, a certain letter should be burnt in his forehead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here we may with *Fr. Sylvius* observe the difference of these three phrases, *Calumniari*, *Pravaricari*, & *Tregiversari*. He which doth in his accusation forge faults never committed, is said *Calumniari*. He which undertaketh ones suit, and either will not urge reasons in the behalf of his client, or answer the objections of his adversary when he is able, is said *Pravaricari*, that is, to play the false Proctor. He which doth desist in his accusation and let his suit fall, is said *Tregiversari*.

## Lex incerta de Nexus.

Cic. pro Mur.

*In iis rebus que mancipi sunt, in periculū judicis prestare debet, qui se nexus obligavit*, that is, if the buyer of any thing in that form of sale called *Nexus* be troubled in law, the seller thereof must secure him, and save him harmless.

*x F. Sylv. in  
orat. pro Mur.*

*Mancipi sunt*] *x* Those things were termed *res Mancipi*, which were alienated from the seller *Nexus*, that is, by such

such a form of sale as followeth. The form was thus : At the least five witnesses, all Roman Citizens, and of full age, besides one called *Libri-pens* (from holding of a pair of ballances) should be present ; and the Chapman and buyer should come with a certain brass coin in his hand, and say, (for example sake, if it were a bond-slave to be sold) *Hunc ego hominem ex jure Quirinum meum esse aio, isq; mihi emptus est hoc ari*, and forthwith striking the ballance with the brass coin, he gave it to him that made the sale. This kind of chaffering was termed *Nexus*, as we may suppose à *rectendo*, because it did bind the seller to make good the sale : y sometimes it is called *Per as & libram venditio*, because of the ceremonies used in it. Now it is commonly called *Mancipatio à manus capione* ; from taking that which is sold into ones hands or possession : whence the word *Mancipatus*, & *Mancipium* are used to signify a bond-slave, that is, in this manner sold, though sometimes *Mancipium* doth signify the sale it self, whence *Cic.* useth this phrase, *Lex Mancipi*, to signify a clause or condition put in the sale. All things sold after this manner were termed *Res Mancipi* ; b the word *Mancipi* being a noun undeclinable, as *Frungi*, *Cordi*, *Hujusmodi*, &c. and from this form of sale, the mortgaging of land for the payment of money may seem to be called *Mancipatio fiduciaria* ; He which did thus receive the mortgage, or land in way of security, is said *accipere fiduciam*. *Cic.* *orat.* *pro L. Flacco*. Upon which place saith *Lambinus*, in his notations, *Accipere fiduciam, est fundum, aut aliam rem soli seu ut appellant immobilem, ab aliquo mancipare, seu accipere ea lege ut cum illi repetat ei remancipet*. We may conject the reason of these ballances, why they should be used in this kind of bargaining, to be, because in old time they did not bargain by paying coined money, which was termed *Aes signatum*, but by paying a certain weight of money ; whence such money was termed *Aes grave* : and hence it is that metaphorically we translate *pendo* and *rependo* to pay and repay.

H h .

C A P.

y *Sylv.* *ibid.*z *Melanct.* in  
*orat.* *pro Mur.*  
*a Camerar.* in  
*orat.* *pro Mur.*b *Prifcian.* *lib.*3. *vid.*Fr. *Sylv.* in  
*orat.* *pro Mur.*Alex. *Gen. di-*  
*er. I. 1. c. 15.*

Cic. pro Cor. nel.

C A P. 18 *De Majestate.* one called *pro lata* (a broad mouth) and *De Lex Varia.* another to keep

**Q**. *Varianus Trib. pl.* made a law, that the *Prætores Quæstores* should sit in judgement upon those, by whom the Allies or Associates had been moved to attempt war against the *Roman* people.

Cic. Phil. 1.

**C. Jul. Caesar** ordained, that such as were condemned of treason, or causing uproars in the common-wealth should be banished.

Cic. pro Mur.

C A P. 19.

*De Ambitu.*

**T**hose laws were termed *Leges de Ambitu*, which were made against indirect or unlawful courses used in canvasses for offices.

*Fabia de ambitu.*  
This *Lex Fabia* restrained the number of those poor men, who because they were wont to follow up and down, and all the day to attend such as did stand for offices, were thence called *Señatores*.

Cic. pro Mur.

*Acilia Calpurnia.*  
*M. Acilius Glabrio*, and *C. Calpurnius Piso* being Consuls, made a law, that such as were convinced of sinister and undire& means used in their canvasses, should be fined at a certain sum of money set on their heads, and they should be made both uncapable of bearing office, and uneligible into a *Senatorial* place.

*Sennus consultum de Ambitu.*  
*M. Tullius Cic.* and *C. Antonius* being Consuls, a certain decree was made by the Senate, that if such as did either satiate or attend upon those which stood for offices, were hired for any manner of reward, and if any publick prizes were occasioned to be plaid; or any publick

lick feasts made by them, they should be liable to the censure of *Calpurnius* his law.

*Tullia lex.*

*M. Tullius Cic.* made a law, that no man standing for an office should cause any publick prize to be plaid, within two years that he either had stood, or should stand for an office, unless the day had formerly been appointed by some will. *Item*, he ordained, that *Senators* being found to have used unlawful means for the attaining of any office, should suffer ten years exilement. And the commonalty offending in that point, should be punished with an heavier punishment then the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to his answer in the Court of their undirect means, *Si morbum excusaret*, that is, If he did urge his sicknes for his not appearance, then should he undergo a penalty.

*Si morbum excusaret.* ] So that *Tully* here seemeth to eat off that liberty, which the twelve tables permitted in these words, *Si iudex alter ve ex litigatoribus, morbo santicus impediatur, iudicis dies diffundatur.* ] i.e. If either Judge, Plaintiff, or Defendant were sick, they should *diffundere* a Sig. de jud. diem, id est, a proferro & in aliud tempus rejicere, prorogue l. 1. c. 28. the time of judgement. And unless some might think that by *morbus santicus* was meant some strange disease, *Sigonius* inferreth, that every disease is termed *Santicus*, which hindreth us in the performance of our busines. *Sontes enim nocentes dicunt.*

*Licinia de Sodalitiis.*

*M. Licinius Crassus* being *Consul*, persuaded, *ut in Sodalitiis Indices, ab accusatore ex tribibus ederentur.* Cic. pro Plan- nio.

*Sodalitiis.* ] In the latter times the *Romans* in their canvasses would gather together a certain company of their side or faction to follow them, terming them *Sodales*, and these *Sodales* would, as it were, by violence force the people to suffrage with them, whence the violence offered by them was termed *Sodalitus*, *Sig. de Ind. lib. 2. cap. 30.*

Judices ab accusatore ederentur ex tribibus.] We may read of three sorts of Judges among the Romans, or rather of three divers kinds of elections of their Judges. For either they were, *Leti sortitione*, of which more may be seen in one of the laws following: or *Editione*, by nomination, or naming them, the manner thereof being thus; That either the Plaintiff should choose them all, and then were they call'd *Judices editissi*, or the Plaintiff should choose one half, & the Defendant the other, & then were they called *Judices alterni*. *Adelanith. in Cic. pro Murem.*

## C A P. 20.

## De pecunia repetunda.

First touching the word *Repetunda*, *Sigonius* saith that such money was termed *Pecunia repetunda qua possent repeti*, which might by the course of law be recovered. Namely such money as any Magistrate, Judge, or publick officer, did either in the provinces, or in the City receive as a bribe from the Allies and Associates, or from the *Roman* Citizens for the administration of Justice, or the execution of any publick duty: and this kind of bribe they termed *Pecunias repetundas, pecuniam ablatam, captam, coattam, conciliatam, aversam* (*Cic. in Urnū.*) But as it seemeth very probable, the laws against bribery were first occasioned, for the ease and relief of the Roman provinces and Allies, called in Latine *Sociis*, who were much abused in this kind by the Prov. Consuls, *Prætors*, and *Quæstors*, &c. whence *Tully* called this law against bribery, *Legem Socialēm*. Here also may we note, that *Tully* useth this phrase *Pecuniam occupare*, for *Fænerari* to put money to use. *Occupare pecuniam est collocare, inquit Nonius, id est, Fænori dare.* *Vid. Lambin. annot. in Cic. orat. pro L. Flacco, Junia lex.*

*M. Junius Pinnus. Trib. pl.* preferred a law, that no such as were convicted of bribery, *Prætor. litis affirmacionem excusum etiam damnato efficeret irragatum.*

List

*Litis affirmationem.*] Here we will consider the difference of these three phrases, *Litis contestatio*, *Litis redemptio*, & *Litis estimatio*. *e* The first signifieth the producing of <sup>e Sig. de iud.</sup> witnesses when both sides shall openly in the Court use <sup>l. i. c. 27.</sup> the form of words, *Tibes eftore*; which was done, *antquam satisdationes facta essent*, before sureties were put in, by the one, that he should *Judicatum solvere*, pay that which he was condemned; by the other that he would *rem ratam habere*, that is, stand to the verdict or sentence in the Court. The second phrase signifieth a composition, or an argument agreed upon by both sides between themselves: *f Redimere lites est pallionem facere, qui enim pacificatur, facit ut lis non sit.* The third is, when the party which is cast in the suit is adjudged to pay the money, or the worth of the goods called in question, together with the cost and damages in law unto his adversary. *g Litem estimare est pecuniam, & qualis fuit, & propter quam condemnatus est reus, in summam redigere, quae de bonis ejus redigatur.* *h And Estimare litem est, quod vulgo dicitur, Taxare lisis expensas.*

*Asilia Lex.*

*M. Acilius Glabrio* made a law, that such as were accused of bribery, *Neg. ampliari, neg. comperendinari* posse, that is, they must out of hand receive judgement.

For the right understanding of these two words [*Ampliari, & comperendinari*] We must consider the antient customes and ceremonies used by the *Romans* in handling their suits of law. First there was *In ius vocatio*, that is, a citation of one into the Court. Secondly *postulatio*, that is, a request put up unto the *Prator*, that it might be lawful for the Plaintiff to enter his action against the Defendant: whence *postulare aliquem de hoc vel illo crimine*, is to accuse one of this or that crime. Thirdly. *Nominis delatio*, that is, the taking of the Defendants name into the Court-book: and this was termed, *Intendere actionem, vel litem*: and *Diem alicui dicere*, that is, to enter an action against one. In the second of these

*g Fr. Sylv. in  
orat. pro Clu-  
entio.*

*h I. Tiffin. in  
orat. pro Rabi-  
rio.*

Acts, namely, when request was made by the Plaintiff unto the *Prator*, that he might enter his action against the Defendant, then the Plaintiff did *Vadari reum*, that is, demand sureties or bail from the Defendant, that he would appear upon the day appointed by the *Prator*: And the Plaintiff did again, *Promittere Vadimonium*, enter bond also for his own appearance upon the same day which commonly was the third day following, called properly *Dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capital letters. I. D. T. S. P. used to be written in their actions: which letters *i Probus* expoundeth thus, *In diem tertium sive perendinum*. So that then properly, *in vel reus dicitur compendinari*, when the giving of sentence is defer'd till the third day. Moreover, before the *Prator* would suffer the action to be entred, he would swear the Plaintiff, that he did not accuse the Defendant *calumnians causam*, that is falsely or maliciously, and this kind of swearing was termed *calumniam jurare*, *calumniam defirare*, and *defilis* *jurare*. Now if either party were absent from the court upon the third day, except he were sick, he was cast in his suit, and the *Prator* did grant an execution, called *Edictum peremptorium*, where he gave authority to his adversary to seize upon his goods. Sometimes there were two or three edicts in manner of Proces or Writs, before the *Edictum peremptorium* could be obtained: sometimes it was granted at the first, and then was it *et* called *unum pro omnibus*. Now if both parties came into the Court and did appear, then were they said *se fuisse*: so that this word *fuisse* amongst the lawyers did signify to shew ones self in the Court. Upon the third day the *Prator* also with the whole bench of the Judges did meet, and the *Judex Questionis* (whom *Rosinus* maketh a distinct officer differing from the *Prator*) did cause all the *Select* Judges to pull out certain lots out of an urn or pitcher brought thither for that purpose, and those Judges upon whom the lot fell, were to sit in judgement:

*¶ Sig. ejuld.*  
*1. c. 28.*

*¶ Sig. ejusd. 1.*  
*cap. 21.*

This

This was called *Sortitio judicium*. Now if either the Plaintiff or Defendant did suspect any of those, that they would be partiall, then might he except against them, and that was called *Judicium rejectio*: then the *Judex* would in manner aforesaid choose other Judges in their places, and that was called *subsortitio*. Which beind ended, those Judges which were thus chosen, received every of them from the *Prator* three tables, the one having this letter *A* written in it, betokening *Absolution*: whence *Tully* calleth it *literam salutarem*: the other having this letter *C* written in it, betokening *Condemnation*: the third having these two letters *N. L.* betokening *Non liquet*. After the receipt of the tables, then did the *Prator* *mittere vel dimittere judices in censilium*, that is, sent them to cast their tables into the urns, there being three urns or little coffers purposely provided; the one for those Judges which were chosen out of the *Senators*, the other for those that were chosen out of the Gentlemen, the third for those which were chosen out of the *Martial* *Treasurers*. Now if they did cast the first sort of tables into the urns, then the *Prator* pronounced the Defendant absolved; if the second, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoscendum*, that they must have longer time to enquire: And this is properly termed *Ampliatio*, a Reprieve, and in such manner it is said, *quod lis vel reus dicitur ampliari*. The proofs for this manner of proceeding in law, may be collected out of *Rosin. ant 1.9.c.19, 20, & 24.* and out of *Sigonius*, according to the marginal quotations. The like custom seemeth to have been received also among the *Grecians*, who had three letters of their Alphabet, answerable to those among the *Romans*, Θ was *damnationis symbolum*, which occasioned that of *Perfusus*. *Et potis et nigrum visio prafigere Theta.* *T.*, a token of *absolution*, *A.* of *amphition*. *Vid. Erasm. Adag.* Θ *prafigere*. Some, as it appeareth by *Erasmus*, give a reason of Θ, because it resembleth the heart of man

man wounded in the midst with a dart ; others, because it is the first letter of *σάνταρο*, signifying death, according to that,

*Infaelix multis Thera est mihi litera fælix.*

*Si Θάνατος scribit, scribit & illa Θάνατος.*

Cic. pro Clus *Cornelius Siba* being *Dictator*, ordained a law, that the chief Judge, call'd *Index questionis*, with the whole bench of Judges should sit upon life and death, on such as had killed a man ; on such as had with an evil intent set any place on fire ; on such as should walk with any weapon, either to kill or rob a man ; on such as had either made, bought, sold, had or given, any poysion, thereby to kill a man, or any magistrate, whosoever should cause any conventicle or secret assemblies, or should give their consent to the suborning of any man, to accuse another falsely, that thereby he being innocent, might be oppressed and condemned by the publick judgement. Moreover *De ejus capite querito*, &c. that is, Let them sit upon life and death on that man, which shall bear false witness that another might be condemned to death ; on that magistrate or chief judge, which shall take a bribe to condemn another to death.

*Parricidium.*] This word doth properly signifie only a murthering of ones parents or kinsfolk, but in *Nama Pompilius* his time, it signified as much as *homicidium*, that is, any man-slaughter whatsoever.

### C A P. 21.

#### *Lex 12. tabularum de vindicijs.*

**S**i quis in jure manum conservant, utriq; superficiibus presentibus vindicias sumunt.

*Si qui in jure.*] Here we must note that the custom among the *Romans* in old time was, that as often as any controversie did arise touching the possession of an house, a field, or any such like thing, the *Prætor* did go unto the house, field, or the thing questioned, being accompanied

nied thither with the plaintiff & the defendant, together with others whom the law required to be present as witnesses. This place, wherefoeuer it were, though in the open field, during the time that the *Pretor* sate there to give judgement, was termed in Latine *fus*, in English a *Court*. Where in the presence of the *Pretor* and the witness, the Plaintiff and Defendant, did *manum conserere*, that is, as in *Camerarius* supposest, argue and dispute the case *pro* and *con* in a solemn form of words prescribed them by the law. For this phrase is borrwed by the Lawyers from the art military, where souldiers are said *manum vel manu conserere*, when they fight hand to hand, [*utriq; superstib; praesentib;*] that is, let both parties in the presence of witness (so in *Festus* expoundeth *superstites*) [*Vindicias sumunto*] that is, let them take a turfe of the ground: for so in *Sigonius* expoundeth *Vindicia*: though properly (as he oblerveth) it signifieth the possession of a thing, rather then the thing possessed. This turfe being taken up, was carried to the *Pretor*, and judgment was given upon that as upon the whole. I do presume that in other cases, as in taking the possession of an house, &c. some other thing in manner of the turfe was presented unto the *Pretor*, upon which as upon the whole he gave judgement. In proces of time, the *Pretor* by reason of the tumult of other imployments, not finding convenient leisure to review every particular ground, or house called in question, pit was ordained contrary to the twelve tables, that the Plaintiff in such cases should come into the court, and challenge the Defendant in this form of words, *ex jure manu consertum te voco*, that is, I challenge thee to go out of the Court into the field, to use one towards the other that solemn form of words which the law enjoyneth. Then did the Defendant either yield the possession of the ground, or else did reply, *Unde tu me ex jure manu consertum vacasti, indebi ego te revoco*. Then did they both, taking witnesses with them, without the company of the *Pretor*,

*m I. Camerar  
pro L. Muræn*

*n Rosin. ant.  
I. 8. c. 19.  
o Sig. de jud.  
lib. 1. cap. 21.  
Vindiciam  
ferre est sen-  
tentia decre-  
toque rem ob-  
tinere dicebat.  
Vindicias  
judex ferebat.  
Vindicias  
qui rem  
obtinerebat.  
Turneb. adv.  
I. 13. 17.*

*p A. Gel. noct.  
Attic. I. 20.  
c. 10.*

inire viam, that is, go into the ground, bringing back a turse thereof, upon the which (as in manner shown) the *Prætor* gave judgement at their return.

For the better understanding of this that hath been spoken in the explanation of this law, we must note, that the action termed *Vindicatio*, was twofold : either the suit for the possession of a thing, or the suit for the Lordship, or right owning thereof. The possession of any thing was recovered, either by a true and real violence, or by a seeming violence : This seeming violence was twofold, either it was *mansucessus*, which was shown immediately before ; or *morbis deductio*, that is a customary leading the unlawful possessor out of the ground, thereby to enter possession. *Vix simulata, altera à lege, altera emanavit à moribus*, saith *q. Sigan.* The first of these did arise from the Roman Law, the other from a custom among the Romans ; the first of these is to be seen in *Tully* his Oration *pro Murano*, the other *pro Cæcina* : To these *Sigoni* adde a third kind of seeming violence ; which how justly he hath termed a violence, I shall leave to the indifferent judgement of the unpartial reader. The right of the Lordship, or owning any thing, was sued for in this manner : the Plaintiff did question with the Defendant thus, first, *an auctor esset* ? that is, whether he had not covertly made away the possession of the thing, thereby to frustrate the action ? Secondly, *an respondet* ? that is, whether he would put in a gage of money into the court, which he would forfeit if he were cast, which being done, the Plaintiff did also upon the demand of the Defendant put in a gage of money to be forfeited if he prevailed not in his suit. This gage of money was termed *rsacramentum* ; and in this sense, *Tully pro Milone* saith, *Injustis vindiciis & sacramentis alienos fundos petunt*, that is, they sue for other mens ground, with unjust actions and gages of money. Thirdly, *An satis daret* ? that is, whether he would put in surety, that during the trial in law, the ground or house called in question should not be impai- red ?

¶ Deind. lib.  
1. c. 21.

¶ Sigan. de  
jud. 1. c. 21.

red? The solemn form of words used in the first demand, is thus to be seen in *s Tully*, *Quando in jure te conspicio, postulo anne fies auctor?* If the Defendant held his peace, then was he adjudged to pay all cost and damage; if he professed himself the present *possessor*, then did the Plaintiff proceed in manner as he should for the possession thereof; if he denied it, then did the *Prator* say unto the Plaintiff, *Quando negat, sacramento quarito*: Thereupon saith the Plaintiff to the Defendant, *Quando negas, te sacramento quinquagenario provoco: spondes ne te solutum quinquaginta asses, si auctor sis?* To whom the Defendant replied, *spondeo quinquaginta asses, si auctor sim: Tu vero spondes ne idem, ni sim?* The plaintiff answered, *Ego quicq; spondeo.* Now in this kind of stipulation, the Plaintiff was said *sponsione & sacramento provocare, sacramento rogare, querere, & stipulari*, that is, to challenge one to pawn a sum of money for the trial of a suit in law. The Defendant was said, *contendere ex provocatione, contendere sacramento, & restipulari*, that is, to be sued in such manner. This money was termed *sacramentum*, because when it was forfeited, it was bestowed *in rebus sacris & divinis*. Touching the last interrogatory, I read no set form of words, but by the word *satisfatio*, the intelligent reader may conject, that it did somewhat symbolize with our English custom of putting in bail. *u* This putting in of bail was twofold. The one was *satisfare judicatum solvi*, to bind himself to pay what should be adjudged. The second was *satisfare rem ratam habere*, to become bound that he would stand to the verdict and judgement of the Court. The first of these bonds was required to be performed by the Defendant: the second by the Plaintiff's Proctor or Attorney. But if the action were an action of debt, then the Proctors alone became bound; the Plaintiff's Proctor, that he would stand to the judgement; the Defendants Proctor, that the debt adjudged should be paid.

*Cic. orat. pro  
fur. & pro  
Cecin.*

*t Sig. de jud.  
l. 1.c. 21.*

*u Sig. de jud.  
l. 1.c. 27.*



## LIB. IV.

*Rites and Customes observed by the  
Romans in their wars.*

*De Militia.*

**T**ouching the art *Military* used among the Romans, it will not be impertinent to consider first how war was proclaimed, and peace established by them; then to march on to the description of their bands, or companies, where we may first observe the office of their chief Captain, and their subordinate leaders, together with the several Wards, into which the universal army was divided. After this we may descend unto the diversity of punishments used toward Captives, and likewise towards refractorious and disobedient souldiers: Adding as a *Corollary* or *Period* to our whole Discourse, the several rewards, which the L. General with his Souldiers after the performance of certain noble achievements received.

CAP.

## C A P. I.

De ritu, quem Romani, observarunt velfædus ferentes, vel  
bellum inferentes: & de triplici ratione conscribendi  
milites.

WE may remember that it hath been already shewn, that both the proclaiming of war and peace belonged unto a certain order of Roman Priests, called *Fœciales*, who by reason of their office, I Englished *Heralds at arms*. The rites and ceremonies, which they used, when they proclaimed peace, were as followeth: *viz.* One of those Heralds having commission from the State (after that both sides had agreed upon the truce and league now to be concluded) took up a stone in his hand, & using this solemn form of words: *Si rectè & sine  
dolo malo hoc fædus atq; hoc iurandum facio, dii mihi  
cuncta felicia praestent, si aliter aut ago aut cogito (ceteris  
omnibus salvis) in propriis patriis, in propriis legibus, in  
propriis laribus, in propriis templis, in propriis sepulchris  
solus ego peream, ut hic lapis ē manibus decider*, and therewithall he cast the stone out of his hand: which manner of oath was termed *Jurare Jovem lapidem*, or *per Jovem lapidem*, that is, as it hath been rendered by *Festus* to swear by *Jupiter*, holding a stone in ones hand: *b* Many say that he did cast that stone at an hog or porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille  
Diespiter, populum Rom: sic ferito, ut ego hunc porcum ho-  
die feriam*: alluding to which custom *Virgil* saith,

*Et eas a jungsant fædera porca.*

The manner of denouncing war hath been already shewn. The act of service in war was termed *Mereri sub  
hoc vel illo duce*, that is, to serve in war under this or that Captain; and whatsoever soldier was discharged of his service, as having served out his whole time, he was called *miles eremitus*, and by *c Tully* such a one is said

*a Polyb. vid.  
Rosin. ant.  
L. 10. c. 2.*

*b Sig. de jur.  
Ital. l. 1. c. 1.*

*c Orat. pro  
lege Manil.*

*d* Serv. 1. 2.  
& 7. *En.*  
*e* Lips. de  
milit. Rom.  
1. 1. dial. 3.

*f* Vid. Lips.  
de milit. Rom.  
1. 1. dial. 6.  
*g* Lips. de  
Rom. 1. 1.  
dial. 4.

*Stipendia confecisse.* *d* Servius hath observed that the Roman souldiers were pressed three manner of wayes: *per Sacramentum, Conjurationem, & Evocationem.* But *e Lipsius* censureth him for the amis explanation of the last member. Therefore the indifferent reader shall give me leave to borrow the terms from *Servius*, but the explanation of them partly from *Servius*, and partly from *Lipsius* in the places now quoted. Ordinarily souldiers at their pres did each severally take their oath not to forsake their Captain or Country; and this oath was called *Sacramentum militare*; the words thereof are rendred by *f Polybins* thus; *Obtemperatus sum, & facturus quicquid mandabitur ab imperatoribus, juxta vires;* and those were termed *Milites per sacramentum.* *g* This sort of souldiers were upon appointed days, as it were of publick Muster, elected and chosen by the military *Tribunes* under the *Consuls*, the assignment of the day did chiefly belong unto the *Consuls*, at which time if any souldier withdrew himself, and did not appear, he was severely punished, sometimes by imprisonment, sometimes by con- fiscation of his goods, sometimes by being sold for a bondslave. Upon extraordinary occasions (as when tumults or commotions did cause any suspicion of imminent danger) the chief leader of the souldiers did go unto the *Capitol*, and bring forth two banners or flags, the one red, called therefore *Vexillum Roseum*, unto which the footmen repaired; the other skie-coloured, called therefore *Caruleum*, which the horsmen followed. The reason why the horsmens banner was skie-coloured, is rendred thus, because it did most resemble the colour of the sea, which colour they deemed most acceptable to *Neptune*, who was both the God of the sea, and the first author of horses. Now because the suddain danger would not yield so much time that they might severally be sworn, therefore did they take their oath in common altogether, only one chief souldier throughout a whole legion, took his oath at large, and express words, *i* the rest

*i* Lips. de mil.  
1. 1. dial.

rest follow'd in order one by one, saying *Kαθάρος ὁ πρότος*, that is, that he swore the same as the first. If the Tribune distusted his soildiers fidelity, then would he swear them every one severally in terms at large, and thence were they called *Milites per conjurationem*; as likewise *Milites subitarii*, in respect of their sudden press: The third member may also be admitted, if we with \* *Lipſius* understand it in its true sense; namely for those soildiers, who by the L. General were added unto the body of their army, he having authority to call out such other soildiers who for their long service were discharged from giving in their names at a muster: And these are generally by all authors termed *Milites evocati*, and *Lipſius* deemeth them all one with those whom *Servius* called *Milites per evocationem*. The soildiers being thus pressed, if they purposed to make war upon their enemies, then did the L. General summon them to prepare themselves by a sound of trumpets: and this was termed *Classicum cane, a calando*, which signifieth to call. Which being done, a skarlet banner was hanged out at the L. General his pavilion, from which ceremony I think that that common adage did first arise, *Conferre signa & Colligatis signis pugnare*, to joyn battle. Immediately upon this they did *Garratum tollere*, make a great shout or noise with their voices, to the greater terror of their enemies, and that the noise might be the greater, they did *Arma concutere*, rustle together with their armour, and clash their swords. Thele four ceremonies are to be seen more at large in *Lipſius*. Unto which we may add the fifth, observed by *Fr. Silvius*; namely that at the removing of their camp they did *conclamare vasa*, give a great shout or cry, in token that the soildiers should truss up their bag and baggage: and hence it is that *Plantus* useth this phrase, *Colligatis vasis* to signifie as much as *parate* or *expedité*. Now that they might be the readier for the battle, they did gird (as I suppose) their soildiers coats close unto them; and a soildier thus girt,

\* *Lipſ. de mil.*  
*Rom. I. 1.*  
*dial. 8.*

{ *Lib. 4 de mil.*  
*Rom. dial. 11.*  
*& 12.*  
*1 in ep. viror.*  
*illust. I. 4. ep. 1.*

*m Plaut. in  
Pseudolo.*

<sup>n</sup> Pigh. in sua  
praf. ad l. 1.  
septim.  
<sup>o</sup> Alex. Gen.  
dier. l. 1. c 20.

*Rites and Customs* Lib. 4.  
girt, was called *Cinctus*, that is, (faith <sup>n</sup> Pighius) *Cinctus*. *o* *Inde discinctos ignavos, & militiae minimè aptos putavunt, Pracinctos vero fortes, & strenuos.* Hence also is that proverbial speech, *In prae*cinctu* stare, or vivere, to be in a readiness continually.*

*Non pudent ad morem discincti vivere Natta.* Pers. Sat. 3.

### C AP. 2.

#### *De Legione, Auxiliis, & Legionis partibus.*

<sup>p</sup> Plut. in  
Romulo.  
<sup>q</sup> Rosin. ant.  
l. 10. c. 4.

<sup>r</sup> Sig. de jur.  
Rom. l. 1. c. 15.

<sup>f</sup> Sigon. ib.

<sup>t</sup> Alex. Gen.  
dier. l. 1. c. 20.  
<sup>u</sup> Pancir. l. re-  
rum deperdit.  
c. de habit. &  
vest. veter.

<sup>x</sup> Sig. de jar.  
Rom. l. 1. c. 15.

**T**HE Roman Forces were in old time divided into two several parts; namely, in *Legiones* & *Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were such as the neighbour and confederate countries did send unto the Romans. The Legions were taken out of the body of the Romans. <sup>p</sup> *Legio à deligendo dicta est*, from the choice and selecting of soildiers. <sup>q</sup> *Romulus* is said to have been the first author of these Legions, making every Legion to contain 3000. footmen, and three hundred horsemen, <sup>r</sup> one thousand footmen and one hundred horsemen being taken out of each national Tribe. Afterward it was augmented by *Romulus* himself into four thousand footmen, <sup>f</sup> whence it was called *Quadrata legio*. And in proces of time a Legion increased unto the number of six thousand: which number it seldom or never exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now: none could be ordinarily registred for a soildier until the seventeenth year of his age, <sup>u</sup> at which his first admission he was termed *Tyro*, a fresh-water soildier: and hence figuratively *Tyrocini-* <sup>u</sup> *um* hath not been translated only the first entrance into war, but also the initiation, or first entrance into any art or science whatsoever. After he had served many years, then was he termed *Veteranus*, an old beaten soildier. <sup>x</sup> The Roman legion was divided in *pedites* & *equites*, there being commonly for every thousand footmen an hundred horsemen. *Pedites distribuit erant in Cohortes*; *Cohortes*

*Cohortes in Manipulos; Manipuli in Centuriis: Equites distributi erant in Turmas, Turma in Decurias.* The word *Cohors* doth signifie that part of ground, which is commonly inclosed before the gate of an house, y which from the same word we call a Court: and z *Varro* giveth this reason of the *Metaphor*: As in a farm-house (saith he) many out-buildings joyned together make one inclosure; so *Cohors* consisteth of several *maniples* joyned together in one body. It is manifest (saith a. *Alexan.*) that the Romans in antient time did very seldom, yea never (except in great necessity) inroll into their univerſal army above four legions: and in an ordinary legion, which he termed *Legionem justam*, ten *Cohortes*; every *Cohors* containing three *maniples*, every *maniple* two *Centuries*, every *Century* an hundred ſouldiers, whence they from *Centum* were called *Centuria*: a *Century*. b These *Centuries* were ſometimes divided into leſſer numbers cal'd *Contubernia*; every *Contubernium* containing ten ſouldiers, beſides their Captain, c which was called *Decanus*, and *caput contubernii*. Where we muſt obſerve, that *Contubernium* doth ſignifie as well the pavilion, or lodging it ſelf, as the ſouldiers lodging therein, &c it may be ſo called *quasi contubernium*, from *Taberna* ſignifying any ſleight lodging made of boards. Those that ruled over a thouſand footmen we may in English call *Sergeants major*: They called them *Tribuni militum*. Those that governed over the *Centuries* were called by them *Centuriones*; by us in English *Centurions*, and they had their inferior officers under them which were called *Tergiductores*, or *Extremi agminis ductores*. d Their office was to oversee and look unto those of the camp which were ſick, who commonly came behind the army *quasi extremum agmen*, & *tergum aciei*. The horſemen were divided into ſeveral troops called *Turmas*; every *Turma* containing thirty horſemen. Again every *Turma* was ſubdivided into three leſſer companies called *Decurias*; every *Decuria* containing ten horſemen: whence their captain was called *Decurio*, and the captains over the greater troops, namely over the ſeveral

K

wings

y Edmunds in  
his obſe; v.  
upon Caſars  
Comment.

lib 2. c. 3.

z Varro lib. 3.  
de re rustica.

a Alex. Gen.  
dier. l. 1.

b Varro vid.  
Rosin ant.  
Rom. l. 12. c. 5.

c Rosin. ibid.

d Veger. vid.  
Rosin. ant.  
Rom. l. 10. c. 7.

wings of the horsemen, were called *Equitum praefecti*. Now the chief governor over the universal army was called commonly *Imperator*; we in English call him a L. General. His Lieutenant or L. Deputy was called *Legatus*, <sup>g</sup> who in old time was sent *non tam ad imperandum, quam ad consulendum Imperatori*. This word *Imperator* in the Roman histories hath a threefold acception; first it is taken for him, who by commission from the State hath the managing of an army, being the same that *Prætor* was in ancient time; and in this sense it hath affinity with the office of our L. General. Secondly, for such a L. General, who by his prowels having put <sup>f</sup> one thousand of his enemies to the sword, was both by his soldiers saluted, and the Senate styled by the name of *Imperator*. But if he had slain less than one thousand, he was not thought worthy of this solemn salutation by that name. Lastly, it was taken for a Sovereign Prince, King, or Monarch, in which sense it was the *Prænomen* of all the Roman Emperors, from *Julius Cæsar* forward. Now because the soldiers in a legion must of necessity differ much in estate, age, and experience, some being wealthier, elder and of more experience then others, hence was it requisite also, that there should be a distinction of places in their armies according to the descent and worth of each several person. We are therefore likewise to understand <sup>g</sup> that the Consuls every year made a general muster: at which time the military Tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of other soldiers was base and dishonourable, not only because they fought afar off and were lightly armed; but also because they were commonly exposed to their enemies, as forlorn hopes. According to <sup>h</sup> Lipsius these *Velites* were commonly placed either *In Fronte*, *Vixi*, or *Cornibus*. 1. In the front of the army. Secondly, in the distances, or spaces between the several maniples. 3. In *Cornibus*, that is, in the wings of the battle; not that

<sup>g</sup> Lips. de mil.  
Rom. L. dial. 3.

<sup>h</sup> Lips. de mil.  
Rom. I. 4.  
dial. 3.

the wings at any time consisted of those *Velites*, for that was the *Socii* and Auxiliary forces; but either the spaces in the wings were filled up by those *Velites*, or else they might obtain a promiscuous place amongst the *forrainers*. Notwithstanding they did like scouts run to and fro casting out their darts (as occasion was offered) and so retire: whence when a man doth leap from one thing to another in his talk, we say he doth *Agere velitari*. Having chosen out a competent number of these scouts, they proceeded to the choise of them, which they called *Hastati*, that is, Pikemen: forasmuch as they fought with a kind of javeling, which the Romans called *Hasta*. These Pikemen fought in the first part or fore-front of the main army. The third choise which they made was of the strongest and highest bodied men, who for the prime of their age were called *Principes*; and hence was the second place or ward in the main army called *Principia*, according to *Thras* of his speech, *Ego ero post principia*, that is, I will follow the *Principes*; thereby choosing to himself the best, and safest place. The last sort of soldiers, which stood in the third place or ward, were called *Triarii*. They were of all the most approved, and the very last help or refuge: so that if they failed, all was lost: and hence ariseth that form of speech, *Ad Triarios venimus est*, whereby we signifie that a thing is come to the last push. As I suppose, the weapon wherewith these *Triarii* fought, was a dart with iron fastened at the end of it, called in Latine *Pilum*. The reasons of this my conjecture are these: 1. because the first Century of these *Triarii* was called *Primum pilum*, & their Centurion *primo-pilus*; and *primipilus*, and *Primus centurio*, because he was the chief Centurion in a whole legion, as having the charge of the chief banner called the *Eagle*; 2. whence *Aquila* is sometimes used to signifie *Primo pilatum*, the office and place of the *Primopilus*. The second Century was called *Secundum pilum*, and their Centurion *secundi-pilus*, &c. Secondly, they called the *Principes*, which marched in the battle immediately before these *Triarii*, *Antepilanos*:

K k 2

which

in a small  
cavalcade  
and a  
large  
one

in a  
small  
cavalcade  
and a  
large  
one

Alex. Gen.  
dier. 1. sc. 19.

in a  
small  
cavalcade  
and a  
large  
one

in a  
small  
cavalcade  
and a  
large  
one

which argueth that those soldiers which followed next, should be the *Milites pilanos*: and by consequence their weapon shoulde be that kind of dart which they called *pilum*: Their manner of embattleing was divers. Sometimes they would make a winged army so that the main body thereof should be in the middle, and on each side a lesser company: The main body we in English call the *Vanguard*, and the two lesser companies we call *Wings*; as likewise in Latine they call them *Alas acris*, & *dextrum et sinistrum corum*. in *Pansirol*, calleth them *Vexillationes*,

<sup>m</sup> Pancir. in notit. orient. & occident. imper. c. 32.

because there fought no more in either wing then belonged to one banner called in latine *vexillum*. The governors of these wings he calls *Alarum prefectos*. Sometimes they embattled so that the forefront of the army being small, it was enlarged bigger and bigger backward, in manner of a triangle: By <sup>n</sup> *Lipſius* it is demonstrated unto us under the form of the Greek letter  $\Delta$ : He in the same place calleth it *caput porcinum*, *quia velut fodiit*, & *ruit invadendo*. Commonly it is called *Circus militum*, the metaphor being borrowed not only from the resemblance it had with a wedg, but that also from the use of a wedg: for they never embattled in that form unless it was to break through their enemies, the piercing angle being thick compacted with sarters. Sometimes they did in a

<sup>n</sup> Lips. de mil. Rom. l. 4. dial. 7.

quite contrary manner, enlarge their army in the forefront, making it to end in an angle; and to this they called *forfex* and *forceps militum*. Sometimes their form of embatteling was circular, and then was it called *Orbis, vel globus militum*. The banner or flag was properly called *Vexillum*, being a diminutive of *Velum*. It was also called <sup>o</sup> *Bandum*, whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem maniblo sceni* (an handful of hay being ued at that time in stead of a flag) *Manipulum militum*: *Ovid*,

<sup>o</sup> Festus vid. Pancir. in not. orient. & occident. imper. c. 32.

*Peregrinus suspensos portabat longa maniplos*,  
*Unde manipularis nomina miles habet*.

\* Suid. in voce *fanus*. \* *Suidas* is plain, *βασιλεὺς πρωτεῖος το στρατον το το μάτιμο*, that

that is, The Romans called their military ensign a *Band*: hence others have used *Bandiger* to signify as much as *Signifer*, an Antient bearer.

## C A P. 3.

*De oppugnatione urbis, & iis quae ad oppugnationem requiriuntur.*

If the siege of a town seemed difficult and hard to compass, then did the Romans use certain means of policy, for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a rampier, fortified with many castles and fortresses, whereby they both kept the town from any forraign succour, and withall secured themselves from sallies, and other stratagems. This rampier did extend it self towards the walls of the city; so that by making (as it were) a great hill, they might overtop the city, and fight with the greater advantage. Now that this greater heap of earth might become firm, and well able to support the buildings to be erected upon it, they did cast in much timber, and stones amongst the earth; and this heap of earth, stones and timber when it was reared, was properly called *Agger*, whence cometh both the Latine verb *Exaggerare*, and the English to *Exaggerate*, that is, to amplifie or encrease a matter. The stakes, posts and trees, which were rammed in about this bulwark, or rampier, to uphold the earth, were sometimes called *q. Cervi*, because of their forked and sharp tops, but more properly *r. Valli, & Valla*. The distance or space between each stake, was called *Intervallum*; though now *Intervallum* doth signifie not only such a distance, but any distance either of space or time, as it appeareth by that of *Tully, Intervallum locorum, & temporum disjuncti*. Sometimes *Vallus* doth signifie a pole or stake, whereunto vines are tied; according to that receiv'd adage, which we use when a special friend forsaketh one, *Vallus vitem decepit*. From the first signification it is, that

K k 3

Vallum

*q. Lips. Pol. 1.**l. 2. dial. 2.**r. Serv. En.**l. 1. o.**f. Cic. ep. fam.**l. 1. ep. 7.*

<sup>t</sup> A. Gel. no. 1.  
Attic. 1.1.15.

<sup>u</sup> Rosin. ant.  
Rom. 1. 10.  
16.

<sup>x</sup> Lipf. Polior.  
1. 1. dial. 9.

<sup>y</sup> Rosin. ant.  
1. 10. c. 16.

<sup>z</sup> Stad. in Flo.  
1.4. c. 10.

<sup>a</sup> Rosin. ant.  
Rom. 1. 10.  
c. 16.

*Vallum* doth often signify the inclosure, or hedging in of trees and stakes, wherewith the bulwark is upheld ; al- luding whereunto <sup>t</sup> A. Gellius translates *ipxḠ iō̄sl̄on Val- lum dentium*. The means of their defence, whiles they were making this their rampire, was a certain engine or ordnance of war <sup>u</sup> made of planks and hurdles running upon wheels, under which they might rest secure from all stones and darts cast from the wals of the City : It was called *Vinea*. A second engine was *Musculns*. The matter where- of it was made I have not read ; but the use of it was, that under it the souldiers might approach unto the wals of the City, and undermine them. Thus much <sup>x</sup> Lipsius seemeth to infer, when he rendreth the reason of the name: *Musculns* ideo dictum, quia in star ejus animalculi fo- derent sub eo terram. A third means of their defence was *Militaris testudo*. This word *testudo* in the Art Military had a double acceptation, both being borrowed from the resemblance of the Tortoise shell, which is the true and genuine signification of this word. In the first acceptation *Testudo* <sup>y</sup> doth signify a warlike engine or fence made with boards covered over with raw hides, which served against fire and stones cast at the souldiers, under this they might safely assail the wals. <sup>z</sup> In the second acceptation it signified a Target-fence, which was a close hold- ing together of targets over head like a vault or roof, wherewith the footmen did defend themselves from the thick shot of arrows, or slinging of stones. Their rampire or countermare being finished, they used certain great timber towers made upon wheels to run to and fro, which they called *Turres ambulatoria*, moveable turrets. These towers had many stories one over the other, <sup>a</sup> wherein they carried ladders and casting bridges, thereby to scale the wals. The engines hitherto have been defensive, such wherewith the Romans defended them- selves in their sieges: others there were offensive, wherewith they did assail the city ; and of those the chief were *Balista* five *Catapulta*, *Scorpius* five *Onager*, *Aries*, & *Mulleoli*.

leoli. The first of these engines, as it was called *Balista* *βαλίστης*, from darting or casting forth any thing, so it was in old time called *Catapulta* *καταπολή*, which signifieth a shaft or dart; though it cannot be denied, but that *Pelta* doth also signifie a kind of shield made in the form of an half-moon, according to that of *Virg. Aen. 1.*

*b* Lips. Pol.  
*l.* 1. *z.* dial. 2.

*Ducit Amazonidum lunatis agmina peltis,*

*Penthesilea furens* —

The form thereof followeth, translated word for word out of *c Marcellinus*. [ Between two planks there is set in firm, and fast joyned a strong and big iron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lyeth forth farther out a four square beam, made hollow with a direct passage in manner of a narrow trough, tied fast with many cords of sinews twisted one within the other, and thereunto are joyned two wooden skewers: near unto one of which standeth the cunning Balister, and subtilly putteth into the hollow passage of the beam a wooden shaft with a big head gleyed fast to it. This done, on both sides two lusty young men do bend the engine by turning about certain wheels. When the top of the head is drawn to the uttermost end of the cords, the shaft being carried forth of the Balista, by the inward force thereof, it flyeth out of sight.] That the reader may receive the more light in the understanding of this obscure description, I have added the very words of *Marcellinus*.

*Ferrum inter axisculos duos firmū compaginatur & vastum, in modum regule majoris extentum, cuius ex volvente teretis, quod in medio ars polita componit, quadratus eminet stylus extensis recto canalis angusti meatus cavitus, & hac multiplici chordā nervorū tortiliū illigatus, eis; cochlea duo lignea conjunguntur aptissimè, quarū prope una adficit artifex complabilis, et subtiliter adponit in tenuis; cavaamine sagittam ligneam, spiculo majore conglutinatam, hocq; facta binc inde validi juvenes versat agiliter rotabiliū flexum. Qum ad extremitatē nervorū acumen venerit*

*summum,*

*c Alm. Marc.*

*l. 23. c. 3.*

*summum, percita interna pulsu à balista ex oculis evolat.* In respect of its use we may english it a *Cross-bow* : but it was much bigger and of a different form. The *Scorpion*, which now they call *Onager*, is described by *Marcellinus* in the same place thus. Two oaken or elm beams were hewn out, and somewhat bended, so that they seemed to bunch out in backs ; and these in manner of a \* saw engine are ti'd fast together, being bored through with wide holes, through which (by the meanes of those holes) strong cords are tied, keeping in the whole frame that it start not asunder : \* From between those bunches another wooden beam reaching forth overthwart, and in a manner of a wain-beam erected up, is tied with such devices unto certain ropes, that it may be pulled up higher, or let down lower at ones pleasure ; and at the top thereof certain iron hooks are fastened, from which hooks there hanged down a certain sling either of iron or tow ; under which erected beam there lyeth a great piece of hair-cloth, full of small chaff, tied fast with cords and placed upon a bank of turfs, or a heap of bricks : When therefore it cometh to the point of skirmish, a round stone being put into the sling, four young men on one side loosing the beams, into which the ropes are incorporated, do draw back the erected beam unto the hook. Thus at length the master of the engine standing in some high place giving a mighty stroke with a hammer (and as I suppose upon the cord, whereunto the erected beam was fastened with his hook) setteth open the rails that contain the whole work, insomuch that this erected beam being now at liberty with that quick stroke, and hitting against the soft hair-cloth, it hurleth out the stone, that will batter whatsoever is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur*. It is also called *Scorpio*, because when the long beam or pillar is erected, it hath a sharp top, in manner of a sting. The modern time hath imposed unto it the name of *Onager*, that is, a wild *A's*, because that wild *Asses*, when they

\* Machinæ

Serratoriz.

\* Ab hac

medietate

testimoniis)

Here we must note,

that this signifi-

cation of

testes is bor-

rowed from

the Anatomists,

which do call

certain emi-

nent parts

behind ~~osca~~

~~osca~~ Testes

Vid. *Fucus*.

instit. med. l. 1.

Sec. 5.

they are coursed by hunters, fling back stones with their heels afar off, so that oftentimes they pierce the breasts of them that follow them. The Latine word is made from the Greek ὄρος, i.e. *Aſſins & ἄκρα, rurs vel ager.* Now if any ask me, why that sackcloth, or ashes was interposed, the reason is rendred by *Marcellinus*, in two lines, which I purposely did not translate in their place, because I would continue the ſenſe without ſuch a long parenthesis. The reaſon is there delivered thus; because the violence and force of the erected beam recoiling after it had been by the ſtroke discharged, was ſuch that it would ſhake in pieces the strongest walls, except there were ſome ſoft thing interpoſed, whereby the forcible strength of the recoil might be by degrees ſhaked. The *Aries* or Ram, is deſcribed also by *Marcellinus* in the ſame place. [The Ram was a great tree or beam, like unto a mafte of a ſhip, having a piece of iron, in manner of a Rams head, fastned at the end thereof, therewith they did demolifh and batter down the walls of a City. It was hung unto a beam, which lay a croſs over a couple of pillars, and hanging thus equally ballanced, it was by force of men pulled backward, and then recoiled upon the walls] The Rams which *Titus* uſed at the ſiege of *Hiersalem*, ran upon wheels: which kind of Rams are deſcribed by *Josephus*. There be, ſaith he, other manner of engines, as an iron Ram upon four wheels bound with iron, and fastened with iron nails, to this they make four feet, anſwerable to the bignefs of the beam, and every beam hath his ſeveral wheel, and when they will batter the wall, certain men firſt pulling it back, they recoil it by the help of four wooden leavers put in the hinder part thereof for that purpose. The head of this Ram hath no horns, but is blunt, made of the strongest kind of iron, with a wonder-ful thick neck. They have alſo of both ſides of the Ram a peatife of wood for the ſafeguard of thoſe that recoil it. *Josephus Ben. Gorion de bello Iudaico.* In lieu of theſe Rams another engine was found out, cal'd *Helepolis, ab inuictato*

law, that is, *capio*, and *miss*, that is, *civitas*: The form of it is to be seen also in *Marcel. ibid.* [There was ( saith he ) a *Testudo*, or vaulted frame made, strengthned with very long pieces of timber: it was covered over with Ox hides, and green wicker hurdles, the upper part or convex surface thereof was overlaid with mud, to the end that it might keep off the fall of fire and casting of weapons. Now there were fastned in the front of it certain *Cupides trisulæ*, that is, iron pikes with three edges, very massive, in manner of the thunderbolts, which Painters, and Poets, exhibit unto us: This great engine the Souldiers ruling within with divers wheels and ropes, with main force they thrust it against the walls. *Malleoli* (saith the same *Marcellinus*) were certain darts, fashioned on this manner; there was an arrow made of a cane, betwixt the head and the neck whereof was fastned an iron full of clefts; arrow, which like unto a womans distaff, on which linnen is spinned, was finely made hollow within the bellow, yet open in many places: In the bely it received fire, with fuel to feed upon; and thus being gently discharged out of a weak bow (for with an over strong shooting the fire was extinguished) if it took fast hold on any place, it burned the same; and water being cast thereon, the fire increased, neither was there any means to quench it, but by casting dust on it. ] Now if they could not prevail by these engines cal'd *Machinae*, then did they make certain passages under ground which they called *Cuniculi*, from *Cuniculus*, signifying a cony-berry; insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare* as it appeareth by that of *d Plutarach, Caesar non jam cuniculis sed machinis tollit rempublicam*, that is, He doth not now covertly, but with open violence assault the common-weal.

*d Plutar. in vir. C. Cæs.*

CAP. 4.  
*De Paenis in Hostes devictos.*

**A**lbeit, after the victory, the Romans inflicted divers degrees of punishment, according to the malice found in an enemy, yet were they always compassionate, and (as histories testify) more exorable then any other nation. The punishments which we find them to have used towards a conquered nation are these: Either they punished them by death, or sold them *sub corona*, or dismissed them *sub jugum*, or merced them in taking away their territories; or made them tributary States. *e* An enemy was said to be sold *sub corona*, when he being placed in the market-place, a crown was put upon his head in token of such a sale: or therefore certain captives were said to be sold *sub corona*, because at such times they were environed about with souldiers, to keep them together, and this circle of souldiers, as likewise all other companies is called *Corona*. When they dismissed any *sub jugum*, *f* they erected two spears, with a third lying a crois, in manner of a gallows: then they caused them being disarmed, and their belt taken away, to pass under in token of bondage. When their territories were taken from them, they were commonly conferred upon old beaten souldiers, in way of remuneration for their faithful service. This transplantation was termed *Colonia deductio*; and the place ever after *Romana colonia*, that is, a Roman Colony: at which times they chose out every tenth man, *viz.* such as were able, and of best sufficiency, to make and establish a publick councill, *g* whom they named *Decuriones*. Whence we may observe, that *Decurio* is not always taken for a Captain over ten horsemen, but sometimes, it is used to signifie an *Alderman*, or chief Burgess in a Roman Colony. These Colonies were of two sorts, some called *Colonia Latina*; others *Italica*. The Latine Colonies had *ius civitatis suffragii*, & *Magistratus capiendi*,

*e* A.Gel.1.c.4.

*f* Stad.in Flor.  
1.1.c.12.

*g* Sig. de jur.  
Ital.1.3.c.4.

dis, si in sua Colonia magistratum gerissent. Italicis autem, Ius civitatis & suffragii nullum erat, immunes tamen erant: nec tributum aut stipendium penderbant, ut provincie solebant. Turneb. advers. l. 1. c. 11. Divers times the Romans would be content after the conquest to grant to their enemies a peaceable injoying of their lands & possessions, conditionally that they would yield all faithful allegiance unto the L. Deputy, whosoever the Senate of Rome should place over them. The L. Deputy was either stiled by the name of a *Proprator*, a *Proconsul*, or a *Praefectus*. Those places where the two first sorts of governors did rule, were termed *Provincia*; the other from the governor was termed *Praefectura*. Where we must observe that this word *Provincia* had a threefold acceptation. First it is taken for a country, which by the force and power of arms, is subdued to the Roman Empire, and governed by some Roman Deputy sent from the Senate; and this is the proper and primitive signification thereof, it being so called. b *Quod populus Rom. eam provicit, id est, ante vicit.* Secondly, it is taken for any region or country, where the L. Gen. or chief Captain over a Roman Army doth mannage war against any nation by commission from the Senate. Lastly, it signifieth any publick function, or administration of office, yea any private duty, charge, or task, either undertaken or imposed; according to that of *Terence*, *Provinciam cepisti duram*, that is, thou hast undertaken an hard task. Now the tribute to be paid, was either certain or uncertain. The certain was properly called *Tributum, vel Stipendium*, and those who paid it were termed *Tributarii* & *Stipendiarii*, and this Tribute was of two sorts, either ordinary, such as was required from every house yearly, even in the time of peace; or extraordinary, such as was levyed by a law, or decree of the Senate towards unexpected charges. The uncertain tribute *k* properly called *Vettigal*, was either impost-money, such as was collected in haven towns for the transportation of Merchants wares, and that was called from

b Pigh. lib.  
Tyrannif.

i Terent. in  
Phor.

k Sig. de jur.  
Rom. l. 1. c. 16.

*Portus.*

*Portus, Portorium*, or from *Porta, Portarium*, and the receivers thereof *Portatores*. The wares after the impost-money had been paid, were sealed by the *Publicans*, with a certain kind of tempered chalk: and this is that which *Cicero* understandeth by *Asiatica creta. orat. pro Flacco*: or tythe corn, namely the tenth part of the grain; and that was cal'd from *Decem, Decuma*, &c the receivers thereof *Decumani*, though *Decumans* when it is an adjective, signifieth as much as *Maximus*, according to that of *Ovid.lib.1.de Trist.*

*Qui venit hic fluctus, fluctus supereminet omnes;  
Posterior nono est, undecimo<sup>is</sup> prior.*

The reason of this signification is <sup>m</sup> supposed to be, because in *Aristmetick*, amongst simple numbers the tenth is the greatest: or lastly, that money which was paid by certain herd-men for pasturing their cattle in the Roman fields and forrests: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*, because (as *Festus* saith) the Bayliff or receiver of this money, called *Pecuarinus*, did *Scribendo confidere rationes*, that is, keep his account by writing: Where we must note, first, that all these kinds of Tributes were not only required in Provinces, or Countries subdued, but throughout *Italy*, even in *Rome* it self. Secondly, though each collector of these Tributes was distinguished by a peculiar name; yet by a general name they were all called <sup>n</sup> *Publlicani*, in as much as they did take to rent these publick tributes. The chief of them which entred into bond, as the principal takers or farmers of these tributes, *Tully* calleth *Mancipes*. The others, which were entred into the same bond as sureties, were termed *Prades*. Many times the Romans did bestow the freedom of their City upon forein countries; and the degrees of freedom were proportioned accordingly as the countries were. Some they honoured with the name of *Roman Citizens*, but excluded them from the right of suffraging, leaving them also to be governed by their own laws and magistrates.

L 3

This.

<sup>l</sup> *Stadius in Flor. l.1. c.13.*

<sup>m</sup> *Fr. Sylv. in viror. illust. op. 2. l. 1.*

<sup>n</sup> *Sig. de jur. Rom. l. c. 4.*

<sup>o</sup> *Cic. de A- rup. respon. & alias lxx.*

*p* A. Gel. noct.  
Attic. l. 16.  
c. 13.

This state they called a *Municipal* state, in Latine *Municipium*, because they were *Muneris huius honorarii particeps*. *p* By *Munus honorarium* in this place, is understood nothing but the title of a Roman Citizen, whereby they were privileged to fight in a legion as free Denisons, not in an Auxiliary band, as the associates. Now the first that ever obtained this *Municipal* state, were the *Cerites*, who for preserving the holy things of *Rome* in the time of the war against the *Gauls*, were rewarded with the freedom of the city, but without power of suffraging.

*q* A. Gel. ib.

*q* From whence it is, that those tables wherein the *Censors* inrolled such as were by them deprived of their voices, were called *Cerites tabula*; *Horace* calleth such a table *Ceritem ceram*, for the reason shewn before. But we must withall observe, that some *Municipal* towns have either by desert or instant suit obtained the liberty of suffraging also, which occasioneth that received distinction, that there was *Municipium sine suffragio*, & *Municipium cum suffragio*. Other countries which could not be admitted into the freedom of the City, have obtained, and that not without special and deserved respects, to be associates and confederates unto the state of *Rome*. The inhabitants of such countries were sometimes called *Socii*, sometimes *Amici*, sometimes *Latini nominis socii*, &c. The King or Prince of such a country did style himself *Amicus & Socius Senat. & Pop. Rom.* Here we must observe a difference between *Pactio* and *Fædus*, both signifying a kind of league. That truce which in time of war is concluded upon, and accepted of both sides for a certain *r* limited space of time is properly called *Pactio*; we commonly call it *Inducia*, and it differed from *Fædus*: *f* First because that *Fædus* is a perpetual truce or league. Secondly because it was necessary that one of those Heraldes at arms called *Faciates*, should by a solemn proclamation confirm this league called *Fædus*, neither of which conditions was absolutely requisite in their truce termed *Pactio*.

*r* Sig. de jur.  
Itall. l. 1. c. 1.  
*f* Sigon. ib.

## C A P. 5.

*Multa militares, quibus milites Romani ob delicta afficiebantur.*

Touching the punishments that the Roman L. General used towards his own souldiers, when they were faulty, they were commonly proportioned unto the fault committed: sometimes they were easie, of which sort were also those punishments which did only brand the souldiers with disgrace: other times they were heavier, such as did hurt and affict the body. To the first sort belonged these: First *Ignominia a dimissio*, i.e. a shameful discharging of a soilder, when he is with disgrace removed from the army. Secondly, *Frandatio suspensio*, i.e. a stoping of their pay: and such souldiers which suffered this kind of mulct, were said to be *are dirutis*, f because *As illud diruebatur in fiscum, non in militia sacrum*. Thirdly, *Censio hastaria*, whereby the soilder was injoyned to resign and give up his spear: for as those which had atchived any noble act, were for their greater honour *Hasta pars donati*, so others for their greater disgrace were forced to resign up their spear. Fourthly, the whole *Cohors*, which had lost their banners, were compelled to eat nothing but barley bread, being deprived of their allowance in wheat: and every Centurion in that *Cohors* had his souldiers belt or girdle taken from him, which was no lesse disgrace amongst them, then it is now amongst us, that a Knight of our order of the Garter, should be deprived of his Garter. Fifthly, for petty faults they made them stand bare footed before the L. Gen. his pavilion, with long poles of ten foot length in their hands: and sometimes in the sight of the other souldiers to walk up and down with turves on their necks. In the last of these they seemed to imitate their city discipline, whereby malefactors were injoyn'd to take a certain beam, resembling a fork, upon their shoulder, and so to carry it round about the town; it hath some affinity with our carting of queans here in England: in the first we have

f Rosin. ant.  
l. 10. c. 25.

<sup>z</sup> Alex. Gen.  
dier. l. 2. c. 13.

no custom that doth more symbolize, then the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein, or letting them blood in one of their arms : <sup>z</sup> which kind of punishment was used towards those alone, which (as they conceited, through the abundance of their hot blood) were too adventurous and bold. The heavier kinds of punishments were these: 1. *Virgis, vel fusti cadi*, to be beaten with rods ; or with staves and cudgels. None were ordinarily beaten with cudgels, but those who had not discharged their office, in the sending about that table, called *Tessera*, wherein the watch word was written ; or that had forsaken their place, where they were appointed to keep watch ; or those who had stolen any thing from out of the camp ; or born false witness against their fellows, or abused their bodies by women : or lastly, that had been punished thrice for the same fault: those which were in this manner cudgelled, were often killed in the place, but if they escaped alive, they went to live in perpetual exilement. The ceremony used in

<sup>u</sup> Trib. milit.

<sup>z</sup> Cic. orat.  
Phil. 3.

this kind of cudgelling was, that the <sup>u</sup> Knight Martial should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staves and cudgels, whence we may say of one that deserves a good cudgelling in <sup>z</sup> Tully his phrase, *Fusilli*, <sup>um</sup> meretur. *Polyb.* calleth it, *Cuonoma*. *Vid. Lips. de milit. Rom. lib. 5. dial. 18.* If a Roman souldier had broken his rank by going out of order, then *Virgis cadebatur*, that is, he was scourged with rods. Sometimes the Knight Martial upon just occasion would cause them to be sold for bondslaves, to be beheaded, to be hang'd. All these punishments were personal or particular, there remaineth one which was general, namely when the fault was general, as in their uproars, conspiracies, &c. Upon such occasions the souldiers were called together, and every tenth man upon whom the lot fell was punished with that kind of cudgelling above spoken of, all the other escaped either

ther without punishment, or with very little. The punishment it self was termed *Decimatio legionis*, and the reason of this kind of punishment is rendered by *y Tully, ut, Cic. pro Cluent.* metu, viz. *ad omnes, pena ad pocos perveniret*. Sometimes such was the clemency of the L. General, that he would punish only the twentieth, nay the hundredth man, and then it was called *vicefimatio, vel centesimatio legionis*.

C A P . 6.

*De donis militaribus ob rem forisiter gestam.*

Concerning the rewards which were bestowed in war; some were by the Senate conferred upon the L. General: others were by the L. General conferred upon his souldiers. Those honours which the L. General received were three. First, *Nomen Imperatoris*, of which before. Secondly, *Supplicatio*, that is, a solemn procession continued for many daies together, sometimes more, sometimes fewer: all which daies the Roman people did observe as holy-dayes, offering up daily prayers and sacrifices to the Gods in the behalf of their L. Gen. The custom being, that after some notable victory, the souldiers having saluted their chief Captain (whom I call their L. General) by the name of *Imperator*, then would he send letters unto the Senate, dight with Laurel, wherein he required both that name to be confirmed, and approved by them, as likewise that they would *Decernere supplicationes*, that is, appoint such solemn supplications. Thirdly, they honoured him at his coming home also with a triumph: *Triumphus vel major, vel minor erat*, saith *Alexander*. The lesser kind of triumph was properly called *Ovatio, xab ova*, from a sheep, which in this time of his triumph was led before him, and afterward sacrificed by him, as also in the greater triumph (called properly *Triumphus*) the L. General sacrificed a Bull: it differeth from the greater triumph; first, in the acclamation, for in the lesser triumph the souldiers following, did as it were redouble this letter O, and some are of opinion that it was there-

*Salmuth. in  
Pancir. l. re-  
rum deperd. c.  
de triumph.*

sore called *Ovatio*. In the greater triumph the sooldiers followed, crying, *Io triumphe, Io triumphe*: an example whereof may be seen in a *Horace*, where he describeth the triumph of *Barthus*, the first author of this greater

*Odes. l. 14.*

*b* Salmuth. in triumph; from whose *b* name also divers Authors do derive this word *Triumphus*, he being in Greek called *βειαυθος*, which by a little change is made *Triumphus*. Secondly they differed, because in the greater Triumph, the L. Gen. did wear a garment of State, called by some

*c* Alex. Gen.  
dier. l. 6. c. 17.

*Trabea*, *c* by others *Triumphalis, Pitta vel Asrrata vestis*; likewise a garland of Laurel, riding in a chariot, the *Senators* themselves, with the best of the Romans, meeting him, his sooldiers with their coronets, their chains, and other rewards, following after: But in the lesser triumph the L. General did wear a plain purple gown, without any gold imbroidering, and a garland of mirtle,

*d* Dion. Hal.  
lib. 5.

*d* commonly going on foot, sometimes permitted to ride on a horse; the gentlemen and commonalty of *Rome* alone, without the *Senators*, did meet him. Moreover,

*e* Alex. Gen.  
dier. l. 1. c. 22.

for a perpetual memory of this their triumph, in some publick place certain trophies were erected. *e* *Trophium* *monumentum dicere, num marmoreum, modo anum, cum inscriptione & titulis aero perpetuo duratris*.

*f* Serv. En.  
l. 10.

*f* *Dictum est* *in re nemiis, id est, a conversione, from making the enemies to retire and turn back.* Sometimes there were statues, columnes, and arches built, in token of triumph.

*g* Fr. Syl. in  
orat. Cic. pro  
Cn. Plancio.

These arches, though commonly they were known by the name of *Arca triumphales*, yet sometimes they are called *Fornices*, whence it is that *Tully* called *Fabians* triumphal arch *Fabianum forniciem*. If it so hapned, that the Roman General himself, personally, did take away any spoiles from the chief captain of the enemies, then did he hang them up in a temple consecrated to *Jupiter Feretrius*, who was so called, because, as the Romans conceited, without the special assistance of *Jupiter*, *Dux incom ferre non poserat*: these spoiles had the name of *Optima Spolia*, that is, Royal spoiles. The rewards bestow-

*h* Alex. Gen.  
dier. l. 1. c. 14.

ed

ed upon the souldiers were divers: either places of offices, as the place of a Centurion, of a *Praefectus a Duxtris*, &c. or their pay was increased, the spoiles distributed amongst them: or lastly, they received certain gifts, termed *Dona militaria*. In ancient times those souldiers which had best deserved, received a certain measure of corn, called by them *Adorea*, <sup>i</sup> and hence it is, that *Adorea* <sup>i</sup> Alex. Gen. is now used to signifie such laud and praise as is due unto a dier. l.c. 18. souldier. But after ages, for the better encouraging of the souldiers, have found out more honourable rewards, of which <sup>¶</sup> these were the chiefest; *Armilla*, that is, a bracelet for the hand wrest; *Torgnis*, a chain to wear about their neck; *Phalara*, horsetrappings; *Hasta pura*, that is, a spear, having no iron at the end of it, (it is sometimes called *Hasta donasica*, and *Hasta graminea*,) Lastly, *Corona*, <sup>¶</sup> Resin. ant. crownes, of which *An. Gel. lib. 5. cap. 6.* observeth these <sup>l. 10. c. 17.</sup> to have been the chief: 1. *Corona triumphalis*, which in old time was made of Laurell, but afterward of Gold, and thence was it called *Corona aurea*: it was sent by the Senate unto the L. General, in honour of his triumph; Secondly, *Corona obfidionalis*, which was given by the souldiers unto the General when they were freed from a siege; it was made of grafs growing in that place where they were besieged, whence it had the name also of *Corona graminea*. Now the reason why they made this crown of grafs growing in the place where they were besieged, was thereby to yield up their right in that place unto their Captain: for by that ceremony, as *m. Pliny* observeth, they did *Terra & ipsa altrice humo & humatione etiam c. 4. cedere*. And hence it is, that in races, and the like masteries, he that was overcome, did gather some of the grafs of that place, and gave it unto the conquerour, as a token that he did acknowledge himself conquerred; <sup>m. Plin. l. 22.</sup> <sup>n</sup> this is the reason of that Adage, *Herbam dare*, that is, to yield the victory. Thirdly, *Corona civica*, which was bestowed only upon him which had saved a citizens life, <sup>o</sup> though in process of time it was also bestowed upon the L. Gen. <sup>p</sup> if he spared a Roman citizen, when he had power to kill him.

him: It was commonly made of oak; whence it was called *Corona quercia*. And this I take to be the reason why in Ovid's time the Emperor had alwaies standing before his gates, an oak tree; in the midst of two Laurels, as an Embleme denoting two worthy vertues required in all Emperors and Princes: first such whereby the enemy might be conquered: secondly, such whereby citizens might be saved. Unto this Ovid seemeth to allude, speaking of the Laurel tree,

*p* Ovid. Met. l.  
Fab. 9.

*p* Postibus. Augustis eadem fidissima custos

*Ante fores stabis, mediumq; subere quercum.*

*q* Dion. Hal.  
lib. 10.

Fourthly, *Corona Muralis*, *q* He only was honoured with this, which did first scale the wals, and enter first into the enemies city: and hence this crown was put upon the circlet, or top, like unto the battlements. Fifthly, *Corona Castrensis*. This the L. Gen. bestowed on him which first entred into the enemies tents: it did bear in it the resemblance of a bulwark, or at least of the mound where-with the bulwark was strengthned: which mound was called in Latine *Vallum*, and thence the crown it self was often called *Vallaris corona*. Sixthly, *Corona navalis*, with which he was honoured, which first entred into the enemies ship in a battle upon sea: it was portrayed with many ship-beakes, called in Latin *Rostra*, *r* whence the crown it self was often called *Corona Rostrata*. That Roman *Heracles Siccius Dentatus* obtained almost all those several rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mirtle tree, the L. General used it in the lesser kind of triumphs, called *Ovationes*, from whence the Coronet it self was named *Ovalis*. It was then bestowed, when the Herald had committed some error in denouncing war; or when the enemies conquered were of mean rank and place, as Servants, or Pyrats; or else if the victory were gotten without bloodshed, or great hazard, the enemies yielding without resistance. *In quibus impulvereis & incrementis victorius, aptam esse Veneris frondem crediderant, quod non Martius, sed quasi Venerus quidam triumphus foret.*

FINIS.

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**N.**

**N.** L. quid signif.

**Nauum Charonis**

**Nefastos dics**

**Nerous**

**Nexi qui**

**Nexus**

**Nomen idem quod debitum**

**Nomina facere, liberare, exigere**

**Nominis delatio**

**Nomenclatio, Nomenclator**

**None**

**Nongenti qui**

**Novi qui dicti**

**Nox intempesta**

**ad medium Noctem**

**media Nocte**

**de media Nocte**

**Nucibus relictis**

**Numello**

**Numeri in ludo tesserario**

**Numerus Stefichorius**

**Numerus pro festertio**

**Nunciatio**

**Nuncium mittere remittere**

**Nuncupare vota**

**Nuptia innupex**

**Nuptia sacramento ignis, & aquæ**

**Nuptialis dona**

**Nympharum aedes**

**O.**

**Onunciatio**

**Observatio de celo**

**Ocreatum usus in bellis**

**Olympica certamina**

**Omen prerogativum**

**Onager machinæ genus, ejusque descrip-**

**ptio**

**Opera & impensa perit**

**Operam & oleum perdidit**

**Optima spolia**

**Opium collis**

**Ops**

**Optimates qui**

**Oracula Sybillina**

**Orbele, gladiatores quidam sic dicti**

**Orbis militum**

**P.**

**Orca quis usus in ludo tesserario**

**Orchebra**

**Ostendere munus**

**Outio quid & unde**

**Ovem nrum**

**Ovilia, locus in campo Martis**

**Ovi cum Mundo similitudo**

**Ab Ovo ad mala**

**Ovum in Cereali pompa quid**

**P.**

**Actio quid**

**Paenans concinere**

**Plasarij & murupij opponuntur**

*ibid.*

**Paganica pilâ**

**Palmediaci calculi**

**Palatia unde dicta**

**Palatina tribus**

**Palatini ludi**

**Palatini Salii**

**Palatinus mons**

**Palla**

**Pallata fabulæ**

**Pallatis pro Græcis dicti**

**Pallium**

**Palma quare victoriz signum**

**Palma lemniflata**

**Palmarum plurimarum homo**

**Palmatæ toga**

**Paludamentum**

**Pan Lyceus & ejus forma**

**Papyrus**

**Parma & Parmaletus**

**Parvicii Quæstores**

**Parricidium quid**

**Paterfamilias aliquando lanissem deno-**

**tit**

**Pater Fiduciarius**

**Pater Patratus**

**Patibulum**

**Patres Conscripti quando primum dicti**

**Patricij qui**

**Patroni qui**

**Paniscape quid**

**Pecuarius**

**Pecunia ablata, capta, coacta, concilia-**

**O.**

**o.**

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